65

THE PROCEEDINGS AT THE Sessions House IN THE Old-Baily, London,

ON

Thursday the 24*th* day of *November*, 1681.

BEFORE

His Majesties Commissioners of *Oyer* and *Terminer*,

UPON THE

Bill of Indictment

FOR

HIGH-TREASON

AGAINST

ANTHONY

EARL of *SHAFTSBURY*.

Published by His Majesties Special Command.

EDINBURGH,
Re-printed by the Heir of *Andrew Anderson*, Printer to His most Sacred *Majesty*, Anno *DOM*. 1681.

THE

PROCEEDINGS

AT THE

Sessions House

IN THE

Old-Bailey, London

ON

Thursday the 29th day of November, 1688.

FOR

His Majesties Commissioners of Oyer and Terminer

UPON THE

Bill of Indictment

FOR

HIGH-TREASON

AGAINST

ANTHONY

EARL of SHAFTSBURY

Published by His Majesties Special Command.

EDINBURGH,
Reprinted by the Heir of Andrew Anderson, Printer to the most Sacred Majesty, James Dyke, 1682.

The Proceedings at the Sessions-House in the Old-bayly, *London*, On *Thursday* the 24th of *November*, 1681.

The GRAND-JURY.

Sir *Samuel Barnardiston.*
John Morden.
Thomas Papillon.
John Dubois.
Charles Hearle.
Edward Rudge.
Humphrey Edwin.
John Morrice.
Edmund Harrison.
Joseph Wright.
John Cox.
Thomas Parker.
Leonard Robinson.
Thomas Shepherd.
John Flavell.
Michael Godfrey.
Joseph Richardson.
William Empson.
Andrew Kendrick.
John Lane.
John Hall.

The OATH.

YOU shall diligently Inquire, and true Presentment make, of all such Matters, Articles, and Things, as shall be given you in Charge, as of all other Matters and Things as shall come to your own knowledge, touching this present service, the Kings Council, your Fellows, and your own, you shal keep secret; you shal present no Person for hatred or malice; neither shall you leave any one unpresented for fear, favour, or affection, for lucre or gain, or any hopes thereof, but in all things you shall present the truth, the whole truth, and nothing but the truth, to the best of your knowledge.

So help you God.

L. C. J. Pemberton. GEntlemen of the Jury, we are all met here in one of the most Solemn Assemblies of this Nation; it is upon the Execution of Justice upon such as shall be found Offenders, and Guilty of the Breach of the King's Laws.

This Commission by which we sit, and you are Summoned, doth in its nature extend to all Offences whatsoever against the Laws of the Land, Treasons, Misprisions of Treasons, Felonies, and all other Crimes and Offences against the King and His Government, such as are vulgarly called *Pleas of the Crown*; they all fall under our Cognizance, and your Enquiry in a general manner. But I must tell you, there is a particular occasion for this Commission at this time. His Majesty having Information of some Evil, Traiterous Designs against His Person and Government, has thought fit to Direct a due Examination of them, and that the persons may be brought to Condign punishment who shall be found Guilty thereof. You must not therefore expect

any general and formal Charge from me; Truly I came hither this Morning, with an apprehenſion, that you had had your directions given you before by the Recorder, for it is our uſual way not to come until the Juries are Sworn in this place, and their Directions given them; but ſince I find it otherwiſe, I take it to be my Duty to ſay ſomething to you, but ſhal not go about now to make any ſuch formal Charge, as in Commiſſions of this nature is wont to be done, nor to give an account of all Offences that fall under your Enquiry of a Grand Inqueſt, Impannelled by vertue of ſuch a Commiſſion at large: Nor muſt you expect I ſhould acquaint you with all the Crimes that you may enquire of as ſuch an Inqueſt.

I ſhall confine my ſelf to far, as on the ſudden I can recollect my thoughts, to acquaint you with the Natnre of thoſe Bills; with the Enquiry whereof, you ſhall at preſent, upon this occaſion, be troubled, and your Duty concerning that Enquiry. I hinted to you at firſt, that they are matters of High-Treaſon, which is a Crime of the greateſt and higheſt nature of any Crime that can be committed againſt Man; other Crimes, as Felonies, Riots, Treſpaſſes, and Things of that nature, they may occaſion diſorders and troubles in a State or a Kingdom. But, I muſt tell you, Treaſon ſtrikes at the root and life of all; it tends to deſtroy the very Government, both King and Subjects, and the Lives, Intereſt and Liberties of all, and therefore has always been look'd upon as a Crime of the moſt notorious nature that can be whatſoever, and accordingly Puniſhments have been appointed for it of the higheſt and ſevereſt extremity. There was at Common Law great variety of Opinions concerning Treaſon, and there were many Diſputes about it what ſhould be Treaſon, and what not; and therefore it was thought fit, by the Wiſdom of our Anceſtors, to have a Law to Declare Treaſon: and by the Statute of the 25th of *Edward* the 3d, there was a plain Declaration made of what was Treaſon, and what not: By that Law, *for any one to Compaſs, Imagine, or Intend the Death of the King*, (for I will give you no more of that Statute, nor concerning the ſenſe thereof, than may be for your purpoſe now;) I ſay, by that Law, *to Compaſs, Imagin, or Intend the Death of the King, and to declare it by Overt-Act, or to Levy War againſt the King* were declared (amongſt other things in that Statute mentioned) *to be High-Treaſon*: And this hath obtained for Law among us ever ſince; and by that ſtanding Law, nothing is to be accounted Treaſon, but what is therein particularly declared ſo; but upon many emergent occaſions there hath been ſeveral other Laws, as the caſe hath required now and then, for to declare and bring other particular Crimes within the compaſs of Treaſons: So there was a Law made in Queen *Elizabeths* Reign, for Enacting ſeveral Crimes to be Treaſons, during her Life, which was made upon the occaſion of the Inveterate Malice of the *Roman Catholicks* againſt her and her Government; and ſo there hath been in other Kings Reigns upon other occaſions.

Amongſt the reſt, it was thought fit by the Parliament aſſembled here, in the Thirteenth year of this preſent King, to make a particular Law for the Enacting and Declaring ſeveral Crimes to be Treaſons, during this Kings Life; they had great grounds, and too much occaſion for it, and ſo they expreſs it in the Preamble of that Law. The wounds which the then late Treaſons had made, that had ſo far obtained in this Kingdom, were then ſtill bleeding, ripe, and ſcarcely cloſed; many Traiterous Poſitions, and many Seditious Principles were ſpread, and had obtained and gained footing among the People of this Kingdom; and the Parliament had reaſon to believe, that where they had been ſo maliciouſly bent againſt the King and His Family, and had taken off His Father, and maintained ſo long and dangerous a War againſt Him almoſt to the utter Deſtruction and Extirpation of Him, and all His good Subjects, and of His and all our Intereſts, Properties, and Liberties, and had almoſt deſtroy'd a flouriſh-

ing

ing Kingdom; Here they had reason, I say, to be careful, to prevent the like mischiefs for the future; therefore, Gentlemen, they did think fit to make a new Law for this purpose: And whereas the Law before was, That it should be Treason to Compass, Imagine, or Intend the Death of the King, so as it were declared by Overt-Act; now they thought it would be dangerous to stay till an Overt-Act should declare the Intention; for when they had seen such malicious and evil Designs against the King and Supreme Authority; and that they had prevailed so far, as to Murder one King, and Banish another; and had gone a great way in the destruction of the Government of this Kingdom, absolutely to root it quite out; They had reason then, as much as they could, to prevent the Designs before they should grow full ripe, and vent themselves in Overt-Acts; therefore it was Enacted by that Statute, made in the 13th year of this Kings Reign, "That if any one should Compass, Imagine, or Intend the Death "of the King, or His Destruction, or any bodily harm, that might tend to His Death "or Destruction, or any Maiming or Wounding His Person, any Restraint of His Liber- "ty, or any Imprisonment of Him; or if any should design or intend to Levy any War "against Him, either within the Kingdom, or without; or should design, intend, "endeavour, or procure any Forreign Prince to Invade these His Dominions, or any "other of the Kings Dominions, and should signifie or declare this by any Writing, "or by any Preaching or Printing, or by any advised, malicious speaking, or words, "this shall be High-Treason.

Now this hath altered the former Law greatly, especially in two Cases: First as as to Levying of War; the Intention was not Treason before, unless it had taken effect, and War had been actually Levied; And then as to the Designing and Compassing the Kings Death, that was not Treason, unless it was declared by an Over-Act: And as to the Imprisoning, or Restraining of the Liberty of the King, they of themselves alone were not High-Treason; but now by this Law these are made Treason, by this Law, during his Majesties Life: And the very designing of them, whether they take effect, or not take effect, though it be prevented (before any Overt Act,) by the timely Prudence of the King and his Officers, though it should be timely prevented, that there is no hurt done; yet the very design, if it be but utter'd and spoken, and any ways signified by any discourse; this (Gentlemen) is made Treason, by this Act; and this hath wrought very great alteration in the case of Treason now; formerly it was said, and said truly enough, that Words alone would not make Treason, but since this Act, Gentlemen, Words, if they import any malicious design against the Kings Life and Government; any Trayterous intention in the party; such words are Treason now within this Act: And this Act was made with great Prudence, and with great Care to take off that undue Liberty that men had taken to themselves; in those times of Licentiousness, People had taken to themselves an undecent, and undue liberty to vent all their Seditious and Malicious minds one to another, without any restraint at all: Therefore now, Gentlemen, you must consider, that Words, if they signifie or purport any Trayterous intention or design in the party, either against the King or his Government; either to restrain his Liberty, or Imprison him, or to do him any bodily hurt, or any Crime of that nature; this is Treason, within this Act of Parliament.

Look ye, Gentlemen, now as to the Indictments that shall be brought before you, you are to consider these things: 1. Whether the Matter contained in them, and which you shall have in Evidence, be Matter of Treason within the former, or this Act of Parliament? And here, if you doubt of it, then you must advise with us that are Commissionated by his Majesty to hear and Determine these Crimes; and in Matters of Law we shall direct you: And you are to enquire if there be two Witnesses that shall testifie the Matters in Evidence to you, for without two witnesses no man is to be Impeached

preached within these Laws; but if there be two Witnesses that shall testifie to you Matters to make good the Indictments, then you have ground to find the Indictments. But I must tell you as to this case of two Witnesses, it is not necessary that they should be; Two Witnesses to the same words, or to words spoken at one time, or in the same place; that is not necessary: If one be a Witness to words that import any Trayterous design and intention, spoken at one time, and in one place; and another testifie other Seditious and Trayterous Words, spoken at another time, and in another place; these two are two good Witnesses within this Statute, and so it hath been solemnly resolved by all the Judges of *England* upon a solemn occasion.

Look ye Gentlemen, I must tell you, That that which is referr'd to you, is to Consider, whether upon what Evidence you shall have given unto you, there be any reason or ground for the King to call these persons to an account; If there be probable ground, it is as much as you are to enquire into: You are not to Judge the persons, but for the Honour of the King, and the Decency of the Matter; it is not thought fit by the Law, that persons should be Accused and Indicted, where there is no colour nor ground for it; where there is no kind of suspition of a Crime, nor reason to believe that the thing can be proved, it is not for the King's Honour to call Men to an Account in such cases: Therefore you are to enquire, whether that that you hear be any cause or reason for the King to put the party to answer it. You do not Condemn, nor is there such a strict Enquiry to be made by you, as by others, that are sworn to try a Fact, or Issue: A probable cause, or some ground, that the King hath to call these persons to answer for it, is enough. Gentlemen, for you to find a Bill, 'tis as much as is by Law required. Gentlemen, you must consider this, That as it is a Crime for to condemn Innocent persons, so it is a Crime as great to acquit the Guilty, and that God that requires one of them, requires both; so that you must be as strict in the one, as you would be in the other. And let me tell you, If any of you shall be Refractory, and will not find any Bill, where there is a probable ground for an Accusation, you do therein undertake to intercept Justice, and you thereby make your selves Criminals, and Guilty, and the fault will lye at your Door. You must consider, Gentlemen, you are under a double Obligation here to do Right; you are under the Obligation of *English-men*, as we are all Members of one great Body, of which the King is Head; and you are Engag'd as *English-men*, to consider, That Crimes of this Nature ought not to go unpunish'd: Then you have an Oath of God upon you, you are here sworn to do according to what the Evidence is. Now therefore, if you have two witnesses of Words that may import a Treasonable Designe or Intention in In any of those Parties, against whom you shall have Indictments offer'd to you, you are bound both by the Law of Nature, as ye are Members of this Body; and by the Law of God, as you have taken an Oath upon you, for to find those Bills.

Gentlemen, Compassion or Pity is not your Province, nor ours in this case; there is no room for that in Enquiries of this nature, that is referr'd to an higher and superiour power, from which ours is deriv'd: Therefore, Gentlemen, I must require you to consider such Evidence as shall be given you, and to be impartial according to what you shall hear from the Witnesses. If you have ground, upon what Evidence you shall have given to you, to believe, that there is any reason or cause for the King to call the persons named in such Indictments, as shall be tender'd to you, to answer for what is objected against them therein, you are to find those Bills, that is all that I shall say to you, only pray God to direct you in your Enquirie, that Justice may take place.

[Then a Bill of High-Treason was offer'd against the Earl of *Shaftsbury*, and Sir *Francis Withens* moved, That the Evidence might be heard in Court.]

L. C. J. Gen-

L. C. J. Gentlemen of the Jury, You hear it is desired by the King's Council, (and that we cannot deny) that the Evidence may be publickly given, that it may not be hereafter in the Mouths of any ill-minded persons abroad, to scatter any Mistakes or Untruths up and down, or to slander the King's Evidence, or to say any thing concerning them that is not true: Therefore we cannot deny this motion of the King's Council, but desire that you will take your places, and hear the Evidence that shal be given you.

[The Jury then desired a Copy of their Oath, which the Court granted, and then they withdrew. After some little time they returned, and then the Clerk called them by their Names.]

Foreman. My *Lord Chief Justice*, it is the opinion of the Jury, that they ought to examine the Witnesses in private, and it hath been the constant practice of our Ancestors and predecessors to do it, and they insist upon it as our Right to examine in private, because they are bound to keep the King's Secrets, which they cannot do if it be done in Court.

L. C. J. Look ye Gentlemen of the Jury, it may very probably be, that some late usage has brought you into this Error, That it is your Right; but it is not your Right in truth: For I will tell you, I take the reason of that use for Grand Juries to examine the Witnesses privately and out of Court, to comply with the Conveniencies of the Court, for generally upon such Commissions as these are, the business is much and at *Gaol-Deliveries* there are a great many persons to be Indicted and Tried, and much other Work besides, of other natures, to be done: And if at such times we should examine all Businesses publickly in the Court, it would make the business of these Commissions of a wonderful great length and cumbrance. Therefore the Judges, for the conveniency of the matter, have allow'd, That Witnesses should go to the Jury, and they to examine them; not that there is any matter of Right in it. for without question Originally all Evidences were given in Court; the Jury are Officers and Ministers of the Court by which they enquire, and Evidence sure was all given in Court formerly; and the Witnesses still are alwayes sworn in Court, and never otherwise. And Gentlemen, I must tell you, 'Tis for your Advantage, as well as for the King's, that it may be sure, that you comply with your Evidence, that you do nothing clandestinely; therefore 'tis for your advantage that this is done, and the King likewise desires it Now I must tell you, That if the King require it of us, and it is a thing that is in its Nature indifferent, we ought to comply with the King's desire, to have it examin'd in Court; you shall have all the liberty that you can have in private; what Question soever you will have ask'd, your selves shall ask it, if you please, and we will not cramp you in time, nor any thing of that Nature. Therefore Gentlemen, there can be no kind of reason why this Evidence should not be given in Court. What you say concerning your keeping your Councils, that is quite of another Nature, that is your Debates, and those things, there you shall be in private for to consider of what you hear publickly. But certainly it is the best way, both for the King, and for you, that there should, in a case of this nature, be an open and plain Examination of the Witnesses, that all the World may see what they say.

Foreman. My Lord, if your Lordship pleases, I must beg your Lordship's pardon; if I mistake in any thing, it is contrary to the sense of what the Jury apprehend. First They apprehend that the very words of the Oath doth bind them, it says, *That they shall keep the Council's, and their own Secrets:* Now, my Lord, there can be no Secret in publick; the very intimation of that doth imply, that the Examination should be secret; besides, my Lord, I beg your Lordship's pardon if we mistake, we do not understand any thing of Law.

Mr *Pap-*

Mr. Papillon. Your Lordship is pleased to say, That it hath been the common usage and practice; sometimes, my Lord, we have heard, that that hath been the Law of *England*; that hath been the Custom of *England*: If it be the ancient usage and custom of *England*, that hath never been alter'd from time to time, and hath continued so, we desire your Lordship's Opinion upon that, as we would not do any thing that may be prejudicial to the King, so we would not do the least that should be prejudicial to the Liberties of the people; if it be the ancient Custom of the Kingdom to Examine in private, there is something may be very prejudicial to the King in this publick Examination; for sometimes in Examining Witnesses in private, there come to be discover'd some persons Guilty of Treason, and Misprision of Treason, that were not known, nor thought one before. Then the Jury sends down to the Court, and gives them intimation, and these men are presently secur'd; whereas, my Lord, in case they be Examined in open Court publickly, then presently there is intimation given, and these men are gone away: Another thing that may be prejudicial to the King, is, that all the Evidences here will be foreknown before they come to the main Tryal upon issue by the Petty-Jury; then if there be not a very great deal of care, these Witnesses may be confronted by raising up Witnesses to prejudice them, as in some cases it has been: Then besides, the Jury do apprehend that in private, they are more free to Examine things in particular for the satisfying their own Consciences, and that without favour or affection; and we hope we shall do our duty.

L. C. J. Look ye, Mr. *Papillon*, it is reasonable that we should give you our advice in this case: I must tell you, if you had consider'd of what I had said before, I thought I had obviated these Objections: First as to that that you do say, that you are bound to Conceal your Councels, and the Kings secrets, that is very true; as to your Councels, that is, your Debates, you are bound to conceal them: As to the Kings secrets, so long as he will have them kept secret, you are bound to keep them so too, but it doth not deprive the King of the benefit of having it publick, if he have a desire for it; you don't break your Oath, if the King will make it publick; you don't make it publick, 'tis the King does it. Then as to that that you do say, that you apprehend the common usage of the Kingdom to be a Law; that is true, Mr. *Papillon*, in some sense; a constant and uninterrupted usage goes for a Law among us; but I thought I had told you before, that both of ancient and latter times there have been Examinations of the Witnesses in Court in Cases of this nature; and we are not without presidents of it every Year, every Term, continually from time to time; Evidence is heard in Court by the Grand-Jury, it is as usual a thing with us, as any thing, if it be desired, nothing more frequent, or more common: I never heard it deny'd, or stood upon by any Grand-Jury in my life, till of late here; you may be instructed with a thousand presidents, for I am sure it is a common and ordinary case upon such occasions, if desired to hear the Evidence in Court.

Look ye, Gentlemen, as to that care that you have of the Kings affairs, the King has reason to take it well that you are so careful for them; and that you are so mindful of his concerns, he hath a great deal of reason to think well of you for it: And, Gentlemen, consider this, that His Majesties Council have certainly considered of this Evidence, before they brought this to a publick Enquiry; or else it would be a hard thing if they should come raw, and not know what the Witnesses can say; for though you are the Jury to hear the Witnesses, yet you must consider, that the Kings Council have Examined whether he hath cause to accuse these persons, or not; and, Gentlemen, they understand very well, that it will be no prejudice to the King to have the Evidence heard openly in Court, or else the King would ne're desire it.

Foreman.

Foreman. My Lord, the Gentlemen of the Jury desire that it may be Recorded, that we insisted upon it as our Right; but if the Court o're rule, we must submit to it.

L. C. J. Here are enough persons to take notice of it; to make Records of such things, is not usual; it is not our business here to record every thing, that every man will desire to be Recorded: We can Record nothing but what is in Order to the Proceedings, but notice enough is taken of it; you need not fear but that there will be Witnesses enough.

L. C. J. North. Gentlemen, I must say something to satisfie what my Lord Chief Justice has said: If any of us had been of a different opinion, we would have spoken it; the same thing was stood upon, and discoursed on the last Sessions, and then all the Judges were of this opinion, and in what all the Judges agree to, you should acquiesce. I must tell you from my own experience; where the King will, he ought to have it kept secret: I have not known it done publickly in the orderly course of business; but I have often known where it hath been desir'd by those which Prosecute for the King, that Evidence hath been given openly; and I never knew it deny'd: If any of my Brothers think otherwise, I desire they would speak; but, I tell you, as to my experience, this is the case.

Mr. Sheriff P. I desire the Witnesses may be kept out of the Court, and called one by one.

L. C. J. It is a thing certainly, that the King's Council will not be afraid of doing; but Sheriffs do not use to move any thing of this nature in Court, and therefore 'tis not your Duty, Mr. Sheriff, to meddle with it.

Sheriff. P. It was my Duty last time, my Lord, and appointed.

Mr. Att. Gen. You were acquainted 'twas not your Duty last time, and you appear against the King.

Then the Indictment was Read.

London ff. 'THE Jurors for our Soveraign Lord the King, upon their Oaths present, that *Anthony* Earl of *Shaftsbury*, late of the Parish of St. *Martins* in the Fields, in the County of *Middlesex*, as a false Traytor against the most Illustrious, and most Excellent Prince, our Soveraign Lord *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland*, King, his Natural Lord, the fear of God in his heart not having, nor weighing the Duty of his Allegiance; but being moved and seduced by the Instigation of the Devil, the Cordial Love, and true, due and natural Obedience, which true and faithful Subjects of our said Soveraign Lord the King, towards him our said Soveraign Lord the King, should, and of right ought to bear, wholly withdrawing, and with all his strength intending the Peace and common Tranquillity in this Kingdom of *England*, to disturb, and War and Rebellion against our said Soveraign Lord the King, to stir up and move, and the Government of our said Soveraign Lord the King within this Kingdom of *England*, to subvert, and him our said Soveraign Lord the King, from the Title, Honour and Regal Name of the Imperial Crown of his Kingdom of *England*, to Depose and Deprive, and Him our said Soveraign Lord the King to death and final destruction to bring and put, the 18th day of *March*, in the Three and thirtieth year of the Reign of our Soveraign Lord, *Charles* the Second, now King of *England*, and divers other days and times, as well before as afterward, in the Parish of St. *Mary Le-Bow*, in the Ward of *Cheap*, *London*, Trayterously compassed, imagined, and intended the Death and Final Destruction of our said Soveraign Lord the King, and the ancient

'Government,

' Government of his Kingdom of *England*, to change, alter, and wholly to Subvert, and
' Him our said Soveraign Lord the King, from the Title, Honour, and Kingly Name of
' his Imperial Crown of this Kingdom of *England* to Depose and Deprive, and War
' and Rebellion against our said Soveraign Lord the King, to move and levy within
' this Kingdom of *England*; and his said most wicked Treasons, and Trayterous com-
' passes, imaginations and purposes aforesaid, to fulfill and perfect, he the said *Anthony*
' Earl of *Shaftsbury*, as a false Traytor, with divers Armed men, Subjects of our said
' Soveraign Lord the King, then being, maliciously, trayterously and advisedly did
' provide and prepare to be aiding to him the said Earl of *Shaftsbury*, to fulfill and per-
' fect his Treasons aforesaid. And his said wicked Treasons, Trayterous compasses,
' imaginations and purposes, the sooner to fulfill and perfect, he the said *Anthony* Earl
' of *Shaftsbury*, as a false Traytor, with one *John Booth*, and other Subjects of our said
' Lord the King then and there Trayterously assembled, met and consulted; and the
' same wicked Treasons, and Trayterous compasses, imaginations and purposes afore-
' said, then and there to the said *John Booth*, and other persons, to the Jury unknown,
' in the hearing of divers Liege Subjects of our Soveraign Lord the King, then and
' there present, openly, publickly, maliciously, trayterously and advisedly did say and
' declare, and to perswade and induce the said *John Booth* to be aiding and assisting in
' his said Treasons, Compasses, Imaginations and Purposes, he the said *Anthony* Earl of
' *Shaftsbury*, as a false Traytor, maliciously, advisedly, and trayterously, the said 18th
' day of *March*, in the Three and thirtieth year of the Reign of our said Soveraign
' Lord the King, at the Parish and Ward aforesaid, within the City of *London* afore-
' said, falsly, advisedly, subtilly, maliciously and trayterously said, asserted and declar-
' ed, That in a short time the Parliament was to sit at *Oxford*, and that he the said
' *Anthony* Earl of *Shaftsbury* had inspected the Elections, and considered the incli-
' nations and dispositions of the generality of the Members of Parliament Elected; and
' that he the said *Anthony* Earl of *Shaftsbury* was satisfied that the Parliament would in-
' sist upon three Matters, (to wit) *The Bill of Exclusion against the Duke of* York; *the*
' *Abolishing the Act of Parliament of the* 35*th of Queen* Elizabeth, *and the passing of a New*
' *Bill for uniting Protestant Dissenters*; with divers other good and wholesome Bills. To
' which he the said *Anthony* Earl of *Shaftsbury* was certain that the Kings Majesty would
' refuse to give his Royal Assent; and therefore he the said *Anthony* Earl of *Shaftsbury*
' did expect that there would be a Division between the Kings Majesty and the Par-
' liament; and that many Noble Lords and Worthy Members of the lower House did
' concur in the same Opinion; and they were resolved to insist upon the Passing of
' those Bills: And if the Kings Majesty refused, that they (meaning him the said
' *Anthony* Earl of *Shaftsbury*, and the said Noble Lords and Worthy Members) had
' provided strength to compel the Kings Majesty to Grant thereunto: And that for his
' part, he the said *Anthony* Earl of *Shaftsbury* had provided stout men to be Commanded
' by Captain *Wilkinson*, (meaning one *Henry Wilkinson*, one of the Subjects of our said
' now Soveraign Lord the King;) of which he the said *Anthony* Earl of *Shaftsbury* had
' agreed that the said *John Booth* should be one.

' And further, The Jurors aforesaid upon their Oath do say, That the aforesaid
' *Anthony* Earl of *Shaftsbury*, his said wicked Treasons, and Trayterous Imaginations,
' to fulfill, perfect, and bring to effect afterwards; to wit, the said Eighteenth day of
' *March*, in the Thirty-third year of his said now Majesties Reign, in the Parish and
' Ward aforesaid, within the City of *London* aforesaid, as a false Traytor in the presence
' and hearing of divers Liege People of our said Soveraign Lord the King, then and
' there present, openly and publickly, falsly, maliciously, advisedly and traiterously said,
' asserted, published, and with a loud voice declared, That our said now Lord the King

was

'was a Man of no Faith, and that there was no truſt in him; and that our ſaid 'Lord the King deſerved to be depoſed, as well as *Richard* the Second, late King 'of *England*, deſerved.

'And further, The Jurors aforeſaid upon their Oath do ſay, That the ſaid *Anthony* 'Earl of *Shaftsbury*, his ſaid wicked Treaſons, and traiterous Imaginations aforeſaid, 'to be fulfilled and perfected, and brought to effect the ſaid 18*th* day of *March*, in 'the Three and thirtieth year of his ſaid now Majeſty's Reign, in the Pariſh and Ward 'aforeſaid, in the City of *London* aforeſaid, as a falſe Traytor, in the preſence and 'hearing of divers Liege Subjects of our ſaid Lord the King then and there preſent, 'openly and publickly, falſly, maliciouſly, adviſedly, and traiterouſly ſaid, aſſerted, 'publiſhed, and with a loud voice declared, That he the ſaid *Anthony* Earl of '*Shaftsbury* would never deſiſt, until he had brought this Kingdom of *England* into a 'Commonwealth without a King, and that the ſaid *Anthony* Earl of *Shaftsbury*, and 'all thoſe that him the ſaid *Anthony* Earl of *Shaftsbury* would aſſiſt, (and he knew 'many that would aſſiſt him the ſaid *Anthony* Earl of *Shaftsbury*) would make *England* 'a Commonwealth as *Holland* was: And that he the ſaid *Anthony* Earl of *Shaftsbury*, 'and other Traytors unknown, would live as in *Holland*, and that he our ſaid Lord 'the King, and all his Family, ſhould be rooted out.

'And further, The Jurors aforeſaid do ſay, That the ſaid *Anthony* Earl of *Shafts-* '*bury*, his ſaid wicked Treaſons, and traiterous Imaginations aforeſaid, to be fulfilled, 'perfected, and brought to effect afterwards, the ſaid 18*th* day of *March*, in the Three 'and thirtieth year of his ſaid now Majeſty's Reign, in the Pariſh and Ward aforeſaid, 'in the City of *London* aforeſaid, as a falſe Traytor, in the preſence and hearing of 'divers Liege Subjects of our ſaid Soveraign Lord the King then and there preſent, 'openly, publickly, falſly, maliciouſly, adviſedly, and traiterouſly ſaid, aſſerted, 'publiſhed, and with a loud voice declared, That our now Soveraign Lord the King 'was a Man of an unfaithful Heart, and not worthy to be truſted, and not fit to Rule 'and Govern, being falſe, unjuſt, and cruel to his People; and if he would not be 'governed by his People, that they (meaning him the ſaid *Anthony* Earl of *Shaftsbury*, 'and other Traytors to the Jurors unknown) our ſaid Soveraign Lord the King would 'depoſe, againſt his Allegiance and Duty, and againſt the Peace of our ſaid Soveraign 'Lord the King, his Crown and Dignity, *&c.* and againſt the form of the Statute in 'ſuch caſe made and provided, *&c.*

Sir *Fr. Withens.* Gentlemen of the Jury, This is an Indictment againſt the Earl of *Shaftsbury*; I ſhall not trouble you to open the Indictment, becauſe the Evidence will be ſomewhat long, I ſhall only tell you which way we ſhall go------

L. C. J. North. I do not know whether you deſire the Witneſſes ſhould be Examin'd apart, do you deſire that, Gentlemen?

L. C. J. If you do deſire it, Gentlemen, they ſhall, for Mr. *Sheriff* hath nothing to do with it; but if you do deſire it, you ſhall have the Witneſſes call'd one at a time, and all the reſt ſhall be put out of the Court.

Jury. My Lord, It is our deſire.

L. C. J. We did deny it to Mr. *Sheriff*, becauſe we are to keep Men within their Duty. Here it is not his Duty to meddle with any thing of this nature.

Foreman. My Lord, We deſire we may have a Liſt of their Names, and that they may be put apart, that they may not hear what one another ſay.

Sir *Fr. Withens.* My Lord, There is one part I would open.

L. C. J. There is no need for it at all------ You ſhall have their Names told you as they are call'd.

Mr. *Harriſon.* My Lord, We pray we may have a Liſt of their Names.

L. C. J. If you desire it, you may have it, but it will be no advantage, for you will hear them named, and you may write them down as they come in.

Mr. Godfrey. We desire a List, for you told us, The King's Council had Examin'd them, and knew who they were.

L. C. J. I'le tell you, The Court is to have their Names Indorsed, for they don't bring Witnesses in hugger-mugger, and I suppose they are Indorsed here.

L. C. J. North. It is want of Experience that makes you ask this; you are told, they are Indorsed here.

L. C. J. Look you, Sir *Samuel Barnardiston*, you must have the Indictment it self out with you, and all their Names written upon the back of the Indictment; but that, you should desire to have the Names of them in a Roll beforehand, I do not know, if there be any reason that you can assign for it.

Foreman. One thing more I have to say, That we may see the Warrant by which the Earl of *Shaftsbury* was committed, for there are some other Questions depend upon it.

L. C. J. That we cannot do, for the Lieutenant of the *Tower* hath that Warrant, which he keeps for his Indemnity; we cannot demand it from him upon any terms: Any thing that you do desire of us, let us know; what is reasonable, and within our Power, we will grant; and for other desires of yours, we tell the reason why we cannot grant them.

Mr. Papillon: My Lord, if your Lordship pleases, I will only acquaint your Lordship, That the Gentlemen of the Jury do seem to be of Opinion, that your Lordship gives them leave to examine the Witnesses; and the Jury, because they would not put the Court to too much trouble, do desire, That the Witnesses should come one after another, and make their Information, and then the Jury would withdraw, to consider what proper Questions to ask them, and come down again.

L. C. J. You shall do so, Gentlemen. Look you, we did at the request of the last Jury use the same method; after they had heard the Witnesses what they gave in, evidence, they came and desired leave to ask them some Questions, which was granted, and they were call'd one by one, and they did examine them; you shall do so, Gentlemen.

Mr. Att. Gen. I was informed this Morning there were several Questions to be askt of the several Witnesses to direct the Grand-Jury how to demean themselves.

L. C. J. Mr. Attorney, the request is reasonable enough.

Mr. Harrison. We desire they may be Examined one by one.

L. C. J. North. I suppose you don't stand upon it for these Witnesses, they are Clerks of the Council, that only prove a Paper which it seems was found in the Earl of *Shaftsbury*'s house: if you will they may go out and be call'd in again.

Harrison. We humbly beg it.

Mr. Godfrey. I was Foreman of the Jury at *Pitz-Harris*'s Tryal, and it was complained he had hard measure from some Irish Witnesses and that it was severe that they should be examin'd in troops: it hath troubled me since that I did not put them out and examine them apart.

L. C. J. Look ye, Gentlemen, you that are Witnesses for the King, you must go all out, and come in as you are called, one by one.

Which done William Blathwait *Esq*; *was produced, and a Paper delivered in.*

Mr.

Mr. Sanders to *Mr. Blathwait.* I pray Sir, give an account how you came by that Paper.

W. Blathwait. This Paper Gentlemen was put into my Custody by Mr. *Gwyn*, Clerk of the Council, who seiz'd it among others in my Lord *Shaftsburie's* House, he gave me the Key of the Room where they were kept, and it hath been altogether in my Custody, except for a short time that it was delivered to Mr. Secretary *Jenkins*, by whom it was re-delivered to me, Mr. *Gwyn* having seiz'd Papers at my Lord *Shaftsbury's* house brought them to the Council-Office, and put them into one of the Rooms, and lock'd the Door, and deliver'd the Key to me. When I was order'd by the Committee of Examinations, I fetch'd up the Trunks and papers, and brought them into the Council-Chamber, and the Trunks were opened in the presence of some of the Lords of the Council, and in the presence of Mr. *wilson*, who was appointed to attend there on the behalf of my Lord of *Shaftsbury*, and he was always present when the papers were taken out of the Trunks and Bags: This was one Paper, and was taken out upon the 6th. of *July* in the presence of Mr. *wilson*, who took particular notice of this paper, as may appear by his own hand. The Trunk was Sealed, it was a great Trunk, and it was open'd in the presence of Mr. *Samuel wilson* and Mr. *Starkey*, who were both appointed by my Lord of *Shaftsbury*.

L. C. J. Was this Paper found in one of those Trunks or Boxes that was deliver'd to you by Mr. *Gwyn*?

Mr. *Blathwait.* This Paper was taken out of a Velvet Bag which Mr. *Gwyn* had put into the great Trunk, which Trunk was Sealed and opened in the presence of Mr. *wilson* and Mr. *Starkey*.

Sir *Fr. withins.* Did you find that Paper in the Trunk?

Blaithwait. I took this and others out of the Velvet Bag which was in the great Trunk.

L. C. J. Call Mr. *Gwyn* to give an account where he found these Papers. Look you Gentlemen of the Jury, you hear what his Evidence is, would you ask him any thing while he is here?

Then Mr. Gwyn *coming in,*

L. C. J. Where had you the Trunk you delivered to Mr. *Blathwait*?

Gwyn. My Lord, on the second of *July* by a Warrant from the Secretary I was commanded to go to my Lord *Shaftsbury's* House to Search his Papers, I did here meet with a great many papers & I took a Note how I had parted them, & into what parcels I had put the Papers; there were several sorts of them in a great Hair Trunk, and there was a Velvet Bag in which I put some papers that were loose in my Lords Closet above stairs. My Lord *Shaftsbury* as soon as I came, gave me the Keys, and told me where his Closets were, and said he would Seal them up with his own Seal: I staid for it, but he sent me word by a Gentleman that I might put my own Seal if I pleased: I did put my Seal upon the Trunk, but afterwards being sent another way, I delivered it to this Gentleman Mr. *Blathwait*: whether any of the Papers were taken out afterwards I cannot tell.

L. C. J. Mr. *Gwyn*, that your Evidence may be the better understood, tell me, were all the Papers that were in that Velvet Bag in my Lord *Shaftsbury's* Closet?

Mr. *Gwin.* In my Lord *Shaftsbury's* Closet above stairs.

L. C. J. This you swear; when you delivered it to Mr. *Blathwait*, all the Papers were in that Bag; was there nothing in that Bag, but what you took in my Lord *Shaftsbury's* Closet?

Gwyn.

Gwyn. Nothing my Lord.

L. C. J. Look you Gentlemen, you do obſerve that this Paper was put into the Bag by Mr. *Gwyn*, and Mr. *Blathwait* Swears he found it in the Bag, and deliver'd it to Mr. Secretary *Jenkins*; therefore if you pleaſe Mr. Secretary *Jenkins* you ſhall be Sworn whether that Paper was delivered to you by Mr. *Blathwait*, becauſe we would clear it as we go, whether that be the Paper was delivered to Mr. Secretary *Jenkins* by Mr. *Blathwait*: I pray Sir, was that the Paper that Mr. *Blathwait* did deliver into your hands?

Mr. Sec. Jenkins. My Lord this is the paper, this Paper was delivered into my hands by Mr. *Blathwait* in the Council Chamber. I cannot ſay that this numerical Paper was taken out of the Velvet Bag; but there were a Great many Papers taken out of it, and I having the honour to be at the Examination of the Papers, this was ordered to be put (and was put) into my hands with nine Papers more.

L. C. J. Was it out of your Hands?

Mr. *Sec. Jenkins.* It was out of my hands; for upon *Monday* laſt I took out the nine Papers intruſted with me and this tenth out of my Deſk, and cauſed my ſervant to mark them by numbers. Then I Sealed up theſe Papers and ſent them to Mr. *Graham*, Mr. *Graham* brought them back again to me without any alteration whatſoever; then I put this tenth Paper into the hands of Mr. *Blathwait* again. All the while it was in my hands it was under Lock and Key, and none of my ſervants ſaw it; but the time it was Numbred; and no manner of alteration was made in this, or any other of the nine Papers.

Lord Chief-Juſtice, Now it appears this was the Paper taken in my Lord *Shaftsbury's* Cloſet.

Then this paper was Read as followeth.

WE the Knights, &c. finding to the griefe of our Hearts, the Popiſh Prieſts and Jeſuits, with the Papiſts and their Adherents and Abettors have for ſeveral years laſt paſt purſued a moſt pernicious and helliſh Plot, to root out the True Proteſtant Religion as a Peſtilent Hereſie. to take away the Life of our Gracious King, to ſubvert our Laws and Liberties, and to ſet up Arbitrary Power and Popery.

And it being notorious that they have been highly encouraged by the Countenance and Protection given and procured for them by J. D. of Y. and by their Expectations of his Succeeding to the Crown, and that through crafty Popiſh Councils his Deſigns have ſo far prevailed, that he hath created many and great Dependents upon him by his beſtowing Offices and Preferments both in Church and State.

It appearing alſo to us, That by his influence Mercenary Forces have been levyed & kept on foot for his ſecret Deſignes contrary to our Laws; the Officers thereof having been named and appointed by him, to the apparent hazard of his Majeſties Perſons our Religion and Government, if the danger had not been timely foreſeen by ſeveral Parliaments, and part of thoſe Forces with great difficulty, cauſed by them to be diſbanded at the Kingdoms great Expence: And it being evident, that notwithſtanding all the continual indeavours of the Parliament to deliver his Majeſtie from the Councils, and out of the Power of the ſaid D. yet his Intereſt in the Miniſtery of State and others have been ſo prevalent, that Parliaments have been unreaſonably Prorogued and Diſſolved when they have been in hot purſuit of the Popiſh Conſpiracies and ill Miniſters of State their Aſſiſtants.

And that the ſaid D. in order to reduce all into his own power hath procured the Garriſons, the Army and Ammunition, and all the power of the Seas and Soldiery, and Lands belonging to theſe three Kingdoms to be put into the hands of his Party and their Adherents even in oppoſition to the Advice and Order of the laſt Parliament.

And as we conſidering with heavy Hearts how greatly the Strength, Reputation and Treaſure of the Kingdom both at Sea and Land is waſted and Conſumed, and loſt by the intricate

tricate expensive management of these wicked destructive Designs; and finding the same Councils after examplary Justice upon some of the Conspirators, to be still pursued with the utmost devilish Malice, and desire of Revenge; whereby His Majesty is in continual hazard of being Murdred to make way for the said D.'s Advancement to the Crown, and the whole Kingdom in such case is destitute of all Security of their Religion, Laws, Estates, and Liberty, sad experience in the Case, Queen Mary having proved the wisest Laws to be of little force to keep out Popery and Tyranny under a Popish Prince.

We have therefore endeavoured in a Parliamentary way by a Bill for the purpose to Bar and Exclude the said Duke from the Succession to the Crown, and to Banish him for ever out of these Kingdoms of England and Ireland. But the first means of the King and Kingdoms Safety being utterly rejected; and we left almost in despair of obtaining any real and effectual security, and knowing our selves to be intrusted to Advise and Act for the preservation of His Majesty and the Kingdom, and being perswaded in our Consciences that the dangers aforesaid are so eminent and pressing, that there ought to be no delay of the best means that are in our power to secure the Kingdom against them. We have thought fit to propose to all true Protestants an Union amongst themselves by solemn and sacred promise of mutual Defence and Assistance in the preservation of the true Protestant Religion, His Majesties Person and Royal State and our Laws, Liberties and Properties, and we hold it our bounden Duty to joyn our selves for the same intent in a Declaration of our United Affections and Resolutions in the Form insuing.

I A. B. Do in the presence of God solemnly Promise, Vow, and Protest to maintain and defend to the utmost of my Power, with my Person and Estate, the true Protestant Religion against Popery and all Popish Superstition, Idolatry, or Innovation, and all those who do or shall endeavour to spread or advance it within this Kingdom.

I will also, as far as in me lies, Maintain and Defend His Majesties Royal Person and Estate, as also the Power and Priviledge of Parliaments, the lawful Rights and Liberties of the Subject against all Incroachments and Usurpation of Arbitrary power whatsoever, and endeavour entirely to Disband all such Mercenary Forces as we have reason to believe were Raised to Advance it, and are still kept up in and about the City of London, to the great Amazement and Terror of all the good People of this Land.

Moreover, J. D. of Y. having publickly professed and owned the Popish Religion, and notoriously given Life and Birth to the Damnable and Hellish Plots of the Papists against His Majesties Person, the Protestant Religion, and the Government of this Kingdom; I will never consent that the said J. D. of Y. or any other, who is or hath been a Papist, or any ways adher'd to the Papists in their wicked Designs, be admitted to the Succession of the Crown of England; But by all lawful means and by force of Arms, if need so require, according to my Abilities, will oppose him, and endeavour to Subdue, Expel and Destroy him if he come into England, or the Dominions thereof, and seek by force to set up his pretended Title, and all such as shall Adhere unto him, or raise any War, Tumult, or Sedition for him, or by his Command, as publick Enemies of our Laws, Religion and Country.

To this end we and every one of us whose hands are here under-written, do most willingly bind our selves and every one of us unto the other jointly and severally, in the Bond of one firm and loyal Society or Association, and do promise and vow before God, That with our joint and particular Forces we will oppose and pursue unto Destruction all such as upon any Title whatsoever shall oppose the Just and Righteous Ends of this Association, and Main-

tain,

tain, Protect and Defend all such as shall enter into it in the just performance of the true intent & meaning of it. And lest this just and pious work should be any ways obstructed or hindered for want of Discipline and Conduct, or any evil minded persons under pretence of raising Forces for the service of this Association, should attempt or commit Disorders; we will follow such Orders as we shall from time to time receive from this present Parliament, whilst it shall be sitting, or the Major part of the Members of both Houses subscribing this Association, when it shall be Prorogued or Dissolved: and obey such Officers as shall by them be set over us in the several Countreys, Cities, and Burroughs, until the next meeting of this or another Parliament; and will then shew the same Obedience and Submission unto it, and those who shall be of it.

Neither will we for any respect of Persons or Causes, or for Fear, or Reward separate our selves from this Association, or fail in the Prosecution thereof during our Lives, upon pain of being by the rest of us prosecuted, and suppressed as Perjur'd Persons, and Publick Enemies to God, the King, and our Native Country.

To which Pains and Punishments we do voluntarily submit our selves, and every one of us without benefit of any Colour or Pretence to exempt us.

In Witness of all which Premisses to be Inviolably kept, we do to this present Writing put our Hands and Seals, and shall be most ready to accept and admit any others hereafter into this Society and Association.

Sir Fr. Withins. This Paper is very plausibly penned in the beginning, and goes a great way to, but in the 12th clause but one, there they come to perfect levying of War; for they do positively say, they will obey such Officers as either the Parliament or the major part of them, or after the Parliament is dissolved, the major part of those that shall subscribe this Paper shall appoint; they will obey all such Officers.

Foreman. Pray what does this Paper of?

Sir Fr. Withins. In this after the bill for the Exclusion of the Duke of York, for it says that may failing, they would do it by force.

Foreman. There is no hand to it at all?

Sir Fr. Withins. No, none at all. One thing I had forgot, That they would join to destroy the Mercenary Forces about *London*, which is down-right levying of War against the King and his Guards.

Mr. Bamber. The design of it is pretended to oppose Popery and Arbitrary power, and destroy the Papists; but that doth not seem so much in its self: but when you heard the Evidence you will hear who were the Papists that were to be destroyed by this Army.

John Booth.

Jury. He has stood in the face of the Court all this while.

L. C. J. When did Mr. *Booth* come down?

Jury. He was here before we went up, my Lord, and hath been here ever since.

L. C. J. Look ye, Gentlemen, they tell you he was carried away, and came down but now.

Mr. Booth. No my Lord, I came down but now.

Mr. Shepherd. My Lord, we desire a List of their Names, that we might know who is here, and who is not.

Mr. Godfrey. This man hath been here all this while, and all the others may be here, for ought that I know.

Sir Fr. Withins. In the first place give an account what discourse you have had with my Lord *Shaftsbury*.

L. C. J.

L. C. J. Speak out that the Jury may hear you.

Booth. I will speak as loud as I can. In the month of *January* about the middle of *January* last, I was introduc'd into my Lord *Shaftsbury's* acquaintance by one Captain *Henry Wilkinson*. I say I was introduced into my Lord *Shaftsbury's* acquaintance by one Captain *Henry Wilkinson*. This Captain *Wilkinson* is a *Yorkshire* Gentleman, he has known me above twenty years, and he and I have had familiar converſation a long while; ſo waiting upon my Lord *Shaftsbury*, our firſt buſineſs that we went about was, Captain *Wilkinson* did pretend to receive a Commiſſion from my Lord *Shaftsbury*, and ſome others of the Lords Proprietors of the Palatinate of *Carolina* to be their Deputy Governour; and he told me he proſpect of that Journey was like to be very hopeful, and that his intereſt was good, and that he could procure me a Commiſſion, and ſuch a number of Acres for quality and quantity as I did deſire; and he ſaid he did not deſign to go over immediately in his own perſon, but he would ſend his eldeſt Son, and his youngeſt Son, and if he went, he would return again as occaſion ſhould ſerve. I conſented to him in all this, and we diſcours'd it divers times together, and we went to my Lord *Shaftsbury* on purpoſe to receive Commiſſions in order to this purpoſe. The firſt time I went there was the Earl of *Craven*, Sir *Peter Colliton*, one *Archdell* a Quaker; I thought him a Quaker becauſe he kept his Hat on, when the reſt of the Lords ſtood bare in civility to him. We diſcours'd the thing about *Carolina*. After this, and before, Captain *Wilkinſon* and I had ſeveral diſcourſes about the juncture of Affairs in theſe times, tho I knew him to be an old Royaliſt, and one that ſerved his Majeſty and his late Father very much in the Wars; yet being under great diſappointments of Preferments at Court, and miſſing the Reward he expected from the King, his heart was turned another way, and he had repented himſelf of thoſe Services he had done for the King, and was become a man of another Opinion; and there was ſome Inducements upon me that I was inclin'd to the ſame opinion: ſo he expreſs'd himſelf to my Lord, and ſo from one thing to another we went on in diſcourſe, and related the ſeveral Parliaments, and the Proroguing them, and the Diſappointments of the People, and the fear of Popery and Arbitrary Power: and this was not done once, nor twice, nor ten times; for I cannot enumerate them, for we kept a continual Club, and convers'd together familiarly near three quarters of a year. After this firſt acquaintance with my Lord *Shaftsbury* at his houſe, I did frequently go with Captain *Wilkinſon*, and between Chriſtmas and *March* four or five times: and I obſerved this, that when we came to my Lord *Shaftsbury's* they were cautious in our acceſſion: In the firſt place it was to be known by ſome of the Servants, who he was in company with: And in the ſecond place the names were ſent up, who they were, that were to ſpeak with him; Sometimes we had an Alehouſe at the Bell in the ſame Street: (I forget the name of the Street) we ſtaid at the Alehouſe till we had a fit time, Captain *Wilkinſon* had acquaintance with his Porter and his Gentleman of his Chamber: and ſo we often diſcours'd. And from the concerns of *Carolina* we fell to matters more publick concerning the State. I remember he would uſe to inveigh ſharply againſt the times, and look upon himſelf as not ſo valued, nor ſo reſpected, nor in thoſe places and dignities as he expected he ſhould be, and ſeem'd to be diſcontented, and he did fear that Popery would be introduced, and Arbitrary Power: and when Parliament-men were to be Elected, there came every week news, bringing particulars of ſuch Boroughs and Counties as had made particular Elections for Members for Parliament; whether Knights, Citizens, or Burgeſſes: And he would often conſider that Parliament that was to ſit at *Oxford*, what they were as to their Inclinations and Diſpoſitions: and he ſaid, they would inſiſt upon the ſame things the other Parliaments before had done. Particularly he ſaid the Parliament would never grant the King any aſſiſtance of Money, nor ſatisfie him in thoſe things that he deſired,

unless he gave the people first satisfaction in those things that they insisted on before, and he believed would insist upon after; and particularly the Bill of Excluding the Duke of *York* from the Crown: another was the abolishing the Statute of the 35th. of *Eliz.* and the third was giving his Royal Assent for the Passing a new Bill whereby all Dissenting Protestants, Nonconformists, or what you will term them, should be freed from those Penalties and Ecclesiastick Punishments that they are subject to by the present Establish'd Law: and he said, if these and some other wholesome Laws and Bills were past by the Royal Assent of the King, he believed that when the people had received this Security and Satisfaction, that they would be very willing to grant the King such accommodations of Money by way of Assessment, or so, as his necessary occasions should also require: but without this he believed, there would be a breach between the King and the Parliament, and that they had order'd the Parliament should meet at *Oxford*, and not at this Metropolis at *London*, where they might go on without fear of being over awed: that this was an intention to awe the Parliament. But he said, himself and divers Noble Lords, and Members of the House of Commons had considered themselves and their own safety, and that they judg'd it dangerous to go to *Oxford*, where they were sure the Guards, the Retinue of the Court, and the Assistance of the Scholars (which usually incline to the Crown) might so over awe the Parliament, that they might not so freely proceed in a way for the publick Good as they intended: and therefore he and others had consider'd with themselves, that it were fit for them to have Guards and send them thither; and to this purpose he had establisht a matter of fifty men, persons of Quality, that he believed would have men along with them; and he intrusted Captain *Henry Wilkinson* with the Command of these men, and they were to come to *Oxford* at such a time, and if there were any breach between the King and the Parliament, or any Violence offer'd to any of these Members by the Guards, or Retinue of the Court, that then these men with others that other Lords had provided, should repel his Force, by greater Force, and should purge the Guards of all the Papists and Tories, and such as were against the Protestant Religion, and the Establisht Laws of the Land; and likewise these men should be ready to assist himself, and those other persons in his Confederacy, to purge from the King those evil Counsellors which were about him: particularly there were named, the Earl of *Worcester*, my Lord *Clarendon*, my Lord *Halifax*, my Lord *Feversham*, and Mr. *Hide*, now Lord Viscount *Hide*; and these persons were look'd upon to be dangerous, and gave the King evil Advice, and made him continue to very deaf to what the Parliament urg'd him to; and therefore they said they would not only purge the Guards, and repel that Force by a greater Force, but also take those Lords by Violence from the King, and bring the King to *London*, to the chief Metropolitan City, where those things should be establisht, which they design'd for their safety in these two respects, for the preserving the Protestant Religion, and likewise for the keeping and defending us safe from Arbitrary Power and Government. Upon this Captain *Wilkinson* did desire me that I would be one of those under his Command: this I did consent to. And he requested me further, that I would provide for my self Horse and Arms; and likewise Arms for my Man, and he would provide me a Horse for my Man. I did accordingly provide Arms for my self, and a good Stone-Horse for my self, and Arms for my Man before the Parliament did sit at *Oxford*. I think the 22d. of *March*, I do not punctually remember the day, and when the Parliament was set, we enquir'd and heard how things went on, and found that it was as my Lord *Shaftsbury* had predicted, that the Parliament did insist upon those very things that he told they would do, but never believ'd or imagin'd they would be so soon dissolv'd. Upon *Thursday* before the Parliament was dissolv'd, Captain *Wilkinson* told me he expected that very Week to have a

Summons

Summons to go up to *Oxford* with those men that were listed with him; but then *Saturdays* news came of the Dissolution of the Parliament, and therefore it took no further effect. The whole matter, the main design was this, That my Lord *Shaftsbury* should have so many men to attend him there for the security of his person, and likewise to repel the force of the Kings Guards, or any other persons that followed the King; and also to remove from him those five Lords, and bring the King back to *London*, to Establish those Laws that I have mention'd.

Sir Francis Withins. Pray what time did you discover this?

Booth. About six weeks ago.

Sir Francis Withins. Had you any discourse with the Earl of *Shaftsbury* after Captain *Wilkinson* spoke with you, or before the sitting of the Parliament.

Booth. I said before that the first motion of these fifty men that were to be my Lord *Shaftsbury's* Guard came from Captain *Wilkinson*; but after this when I went with Captain *Wilkinson* to my Lord *Shaftsbury*, the same thing was discoursed there. The last time I was with my Lord *Shaftsbury* was about a week before he went to *Oxford*, about ten days before the Parliament sat, or a week, and then I heard the same discourse from my Lord *Shaftsbury's* own mouth.

Sir Francis Withins. Had you any other discourse with my Lord *Shaftsbury*?

Booth. I say I made three or four Visits between *Christmas* and *March*, and we had discourse every time particularly about the Kings person, and if the King did refuse these motions, that then these men were to be taken from him, and he to be kept with a greater Force, and be brought to it by force.

Sir Francis Withins. Did you ever make any solicitation to any to make this Discovery?

Booth. Thus far I said, and I will tell you the whole matter in that point; there was one *Walter Banes* an acquaintance of mine, and I found that he had at *Wilkinson's* request engaged himself in some business that one *Brownrig* an Attorney in *Yorkshire* had writ to him about, concerning some men that were to Swear against my Lord *Shaftsbury*. I asked Mr. *Banes* what men these were, he said, he thought they were *Irish-men*. I said, I don't know what Conversation in that nature my Lord *Shaftsbury* might have with *Irish-men*, for I know none of them; but I am satisfied that he had Conversation tending to these ends that you speak of with some *Irish-men*, and that I know. This Mr. *Banes* did take particular notice of, and he was very frequently upon me to tell him what the matter was, and I gave him some intimation of it. Truly 'twas very much upon my spirit, and I could not tell whether I was able to carry it through or not, or had better to let it alone as it was in silence; but discoursing still more with him, and at the result of that discourse we had by degrees, I did give him some intimation of it. And after that upon second thoughts I took a resolution to discover it, and when I did discover it, I do here in the presence of God declare, that no mortal did know any thing of what I had to say in reference to the King; nor did I make any more applications in the world, but took Pen, Ink, and Paper, and write it down, and sealed it under a Cover and sent it to the Council.

Sir Fr. Withins. Gentlemen of the Jury, would you ask him any Questions?

Mr. Papillon. The Jury bold your Lordship before, that when all has been examin'd they would consider what Questions.

Ld. C. J. Where would you have those Witnesses that have been examined to stand?

Mr. Papillon. We leave it to the Sheriffs to appoint a place for them.

Lord Chief Justice. To keep them apart it's utterly impossible, for we must have as many Rooms then as there are Witnesses.

Jury. Let one man keep with them.

L. C. J. Empty that place where they were the last time, and let them stand there.

Edward Turberville.

Sir Francis Withens. Mr. *Turberville*, have you had any discourse with my Lord *Shaftsbury*?

Turberville. Yes several times. In *February* last, I am not positive in the time, but about the beginning of the Month, I waited upon my Lord *Shaftsbury*, about some moneys. I waited upon him to have his Advice how I might come by't, and to gain my Lord *Shaftsbury*'s Letter in my behalf to the President of the Council to stand my friend; and he said there was little good to be had from the King, as long as his Guards were about him; for were it not for his Guards, we would quickly go down to *Whitehal* and obtain what terms we thought fit. Said I, my Lord, I suppose his Guards can't defend him from the whole Kingdom. His Lordship said, That the Rabble were all of that side, especially the People about *Wapping*, and *Aldersgate-street*; and the Rich men of the City would Vote for Elections; but they could not expect they should stand by them in case there should be any Disturbance, for they valued their Riches more than their Cause. And at *Oxford* I heard my Lord say again, He wonder'd the people of *England* should stickle so much about Religion, and that if he were to choose a Religion, he would have one that should comply with what was apt to carry one their Cause.

Mr. Sanders. Had you any other discourse with him at any other time?

Master Turberville. I told you all that is material that I can say to it.

John Smith.

Mr. Smith. My Lord, I only beg a word or two from your Lordship of some reflections cast upon me.

L. C. J. Go to your Evidence.

Mr. Smith. My Lord, this is something to my Evidence.

L. C. J. You may take another time for that.

Mr. Smith. My Lord, it hath been reported about in Coffee-houses and Taverns, that I should Swear there was a general Design against his Majesty; and that I Swore it before the King and Secretary of State; and that I also Swore it at the Tryal of Mr. *College* and Mr. *Rowse*: I take it upon my Oath I never Swore any such thing, neither can I Swear there was a General Design by the City, or the Parliament against the King.

Lord Chief Justice. Speak what discourse you have had with my Lord *Shaftsbury*.

Mr. Smith. My Lord, I suppose it is past all doubt, that I have been very often with my Lord *Shaftsbury*; and I have often in his discourse observed that he spake very irreverently and slightly of the King; sometimes saying he was a Weak man, and sometimes saying he was an Inconstant man; a Man of no firm or settled Resolutions, and a Man that was easily led by the Nose, as his Father was before him, by a Popish Queen, which was the Ruine of his Father: This was both in publick and in private. I have also observed sometimes in his discourse, something that he mention'd of the Earl of *Essex*; and that the King should declare, That the Earl of *Shaftsbury* was not satisfied to be an ill man himself, but got over the Earl of *Essex* too: This the Earl

of

of *Shaftsbury* declar'd publickly in his own house. Another story was of the Rebellion of *Scotland*, That the King should say that the Earl of *Shaftsbury* was the chief Promoter of that Rebellion; and when this was told my Lord *Shaftsbury*, that he should send word back again to the King; "I am glad (says he) that the King sees not his "own Danger, nor what he runs himself into; and pray tell him, that, if I were to "raise a Rebellion, I could raise another guess Rebellion that the Rebellion was in "*Scotland*. But now as to the particular points I am to charge him with, I remember my Lord, that my Lord *Shaftsbury* sent for me one time, and that by one *Manly*; sometimes they call him Major *Manly*, sometimes Captain *Manly*; and this man found me at Mr. *Bethel*'s Club in *Newgate-street* at the Queens Arms; and there he told me my Lord *Shaftsbury* would speak with me that night. I immediately left the Club, and went to my Lord *Shaftsbury*'s; and I was introduc'd into the Dining Room, where there were two Gentlemen in discourse with my Lord; and as soon as he saw me, he ask'd me how I did: I told him I was very well, and came in obedience to his Lordships Command to wait upon him; for Major *Manly* told me your Lordship had a mind to speak with me: he said he had. Soon afterward, these two Gentlemen went away. Upon this, my Lord turns about, Mr. *Smith*, said he, Mr. *Hetherington* was with me this morning, and told me he was afraid that the Irish Witnesses would go over to the Court Party, and retract what they had said formerly. My Lord, says I, I know no person can better and with more ease, hinder that than your Lordship, by procuring some small Allowance for them; for they complain much of Poverty. Says he, Master *Hetherington* has the charge of them, and hath a special care of them, and I believe they don't want. My Lord, says I, I know nothing of that, he knows what provision he hath made for them. This is the thing, said my Lord, that I would have you do, they stand in great awe of you, and you must perswade them from going nigh that Rogue *Fitz-Gerrald*, that great Villain, that is pamper'd up, and maintain'd by the King and the Court Party, to stifle the Plot in *Ireland*. My Lord, says I, do you think the King would be at such vast charges for to bring over Witnesses, and at last maintain men to stifle this Plot, for that is the way to stifle the Plot in *England* too, as well as that. Says he, what is this Frequent Dissolutions and Prorogations of Parliaments for, but to stifle the Plot here, and to hinder the Lords in the Tower to come to a Tryal? This is a strange thing my Lord, said I, when he gave Dr. *Oats*, Mr. *Bedlow* and Mr. *Dugdale* such large allowances to prosecute this Plot. Says my Lord, that is nothing, that may hold for a year or two, he may take it off when he will, but the chief means are put by, whereby we might find out the depth of this Plot, and if Mr. *Dugdale* and Dr. *Oats* be knock't on the head, then where is this Plot? then there will come an Act of Oblivion for them, and all things will be well as they were before. My Lord, said I, this is very strange to me. I can give you instance of it, says he, when I was lately in the Tower, I told some I saw Popery coming in, and that it was hard to prevent it. I am sorry to hear it, said I, but what would you have me do with these *Irish* Witnesses? Says he, perswade them not to go near *white-hall*, nor this *Fitzgerrald*. And, said he, one thing more, I would have you mind, Mr. *Smith*, that if the King were not as well satisfied with the coming in of Popery as ever the D. of *York* was, do you think the D. of *York* would be so much concern'd in the bringing in of Popery as he is? I am sorry for it, my Lord if it be so: After this I parted with my Lord *Shaftsbury*, with full instruction from him to those *Irish* Witnesses. I met Mr. *Hetherington* the next morning, and I told him that I was with my Lord *Shaftsbury*: says he I know your business and would have you meet us at the Sun Tavern in the Afternoon. My Lord, I went according to the time appointed, and met him at the Sun Tavern between 6, or 7, or 8 of the

Clock,

Clock, as near as I can remember. When I came to them I began to open those great and horrid Crimes that I heard *Mr. Fitzgerald* accused of, That he was a man come to discover a Plot, and disowned it here, and retracted all he had said. I told them what a Crime this was. In short, my Lord, they promised never to go near the man. I parted that night and came to my Lodging, and the next morning *Mr. Hetherington* and one Mr. *Bernard Dennis* came to my Lodging and told me, That this *Bernard Dennis*, was ready to give in Information against *Fitzgerald*, that he had tamper'd with him to forswear all he had sworn before. I went presently with Mr. *Hetherington* and Mr. *Dennis* to my Lord Major, who was then Sir *Patience Ward*; after we had told the business to Sir *Patience Ward*, Sir *Patience* ask'd the *Dennis* if there were any other persons present. Yes, sayes he, there was. Sayes Sir *Patience*, you are upon your Oath, if you know not the Nature of an Oath, I will tell you. The Information was drawn up; the Copy of this Information I carry'd to my Lord *Shaftesbury* and shew'd it him, he read it, and was very well pleas'd with it, and said, Mr. *Smith*, don't you see the Villany of that man and that factious Party, and that the King runs the same Steps as his Father did before him, how can any thing of this Nature be done without the King and the Court pamper'd him up? my Lord, said I, I think now the thing is clear. I, sayes he, these are the very same Steps that his Father followed when he was led by his Popish Queen, and the poor man doth not see his Danger. I parted from my Lord, and came, and gave an account of this very discourse to the Club in *Newgate*-street, and they were glad of it, and I told what my Lord *Shaftsbury* said, That the King would never be quiet till he came to his Fathers end, he follow'd the same Steps. Another thing that I observ'd particularly before the Parliament went to *Oxford*, I went to see him, and was set into the discourse, and my Lord said there was great preparations made, and a great many gathered together upon the Road between *London* and *Oxford*. my Lord, said I, What is the meaning of this? Any body may see, say's he, that is only to terrifie the Parliament to comply with the King's desire, which I am sure the Parliament never will, for we are as resolute now as ever, and more resolute, for we see clearly what the King Aims at, and that is to bring in Popery. Which I told several years ago, and when I was left in the Tower, but, sayes he, we have this advantage of him, if he offer any violence to us, (For we expect it,) that we have the Nation for us, and we may lawfully oppose him, and he will meet with a very strong opposition, for almost all out of the Countrey, shall be well Horsed and well Arm'd, and so we shall be all, and here is the City which now has a question in Debate among them, whether they shall bear the charge of their own Members or no, but they are willing to do it, and send so many men to wait on them, and if we oppose the King, as we may do for it hath been done in former times, the whole Nation is to stand by us, and as I said when I was in the Tower, I would dye, before I would ever bring in Popery or any thing of that Nature.

Jury. Repeat that again.

Smith. He said, that the King, if he offered any Violence at *Oxford* to the Parliament, he would meet with a strong opposition and that the Gentlemen that came out of the Countrey were well provided with Horse, Arms, and Men, to oppose him, and that they might lawfully do it if the King offered any Violence to them within their Act, and that the Nation stood by them, and that they did represent the Nation, and that for his part he and all his Friends would do it to the utmost of their Power, and as Old as he was, he would be one that would oppose it to his power. My Lord, said I, we can expect nothing but Confusion, from this Parliament in this Nature for then we shall be involved in another Civil War, nothing else can put an end to our Miseries,

es, or make this Nation a settled Nation, but a Civil-war. Then my Lord said I, by this means we shall make an end of Monarchy, or else inslave the Nation to Popery for ever. No doubt of one say's he, but we are sure of one, for the Nation is of our side; and the City you know how they are, and where ever they Strike, I am sure the Nation will, and this I'le stand and dye by. This is the substance of what I have to say against my Lord *Shaftsbury*, and upon the Oath I have taken, I am sure I have not added a Word. One Word more I have to say, 'Tis reported I have been hired and as Suborn'd, I do admire why this City of *London*, where there are as worthy men, and great Lovers of the King and Government as any in the World, should say any such thing; I was never Suborn'd by them, nor never took a farthing of their money, nor never took a farthing of the King in my life.

L. C. J. Who supposes it?

Mr. *Smith*. 'Tis in Print, my Lord, 'twas in the Book that came out last night, it is suppos'd, my Lord, for it is in print.

L. C. J. I had reason to expect that there was no such objection.

Brian Haines.

Mr. *Sanders*. Give your knowledge of what discourse you have heard concerning my Lord *Shaftsbury*.

Mr. *Haines*. Sir, I have heard him Vilifie the King very often, and he told me about the Narrative that I made about Sir *Edmund-Bury Godfry*'s death, Mr. *Ivey* and Lyvent to him one day, and he spoke to me of it, and I desired him not to expose my person to the King's Anger; for I was sure he would never grant a pardon to any man that impeached the Earl of *Danby*. Says he, Do not fear, if he doth not grant you a pardon, he makes himself the Author of the Plot; and, says he, the Earl of *Essex*, my Lord *Herford*, and I, we do all resolve if you put in writing, we will go to the King, and beg a pardon of his Majesty for you, and if he doth not grant it, we will raise the whole Kingdom against him; for, says he, he must not expect to live peaceably in his Throne, if he doth not grant it. For he makes himself author of the Plot.

My Lord, said I, he hath dissolved so many Parliaments for the sake of the Earl of *Danby*, and prorogued so many Parliaments therefore he will never grant me this Pardon. Says he, do not fear, 'tis the best presence we can have in the world, and if you will but put in writing, and let me read it, that I may give my opinion of it, the work is done, and if he doth not do it, we are prepar'd to raise Arms against him. I was with him another time after I made this Narrative; and he told me the two Mr. *Godfrey*'s were with the King at *Windsor*, and begged a pardon of his Majesty for me, but the King would not grant it, but if he be an honest man, let him lye at my mercy, let him come in and declare what he knows. Said I, I would not have your Lordship expose my cause in these days. This is the best time for it in the world, say's he, if he doth not do it, he can't expect to be long King of *England*. Pray my Lord said I, what shall I do in the mean time? I will go beyond-Sea, said I. No says he, don't leave the Kingdom, he dares as well be hang'd as meddle with you. I desir'd him a second time not to expose me to the King's fury, and I pray'd him to help me to a little money to go beyond Sea, for I was sure I could not be safe in *England*. Says he, Have a care of your self; but, says he, he dares as well be hang'd as meddle with you. Then I was in close conference with him one day, and I gave him so exact an account of all Transactions from King *Charles* the First's Reign, the commencement or coming to the Crown to this very day, that he was mightily satisfied, finding by me that I was a Traveller, he was mightily pleased, and free with me. Pray my Lord

What

what Model do ye take, or intend to do? Sayes he, Do you not think but there are Families in *England*, that have as great pretences to the Crown as the King? Sayes he there is the Duke of *Buck*, in the right of his Mother, she was descended from *Edward*, one of the *Edwards*, and in her Right he claimes the Barony of *Ros*, he hath as great a Right to the Crown of *England*, as ever any *Stewart* of them all.

Jury. Speak that again.

Mr. *Hains*. I was in Conference with my Lord *Shaftsbury* one day, and I gave him an exact account of all Transactions, and I asked what they did intend to do with the Government, if they pull'd the King down. Sayes he, Do you think there are no Families in *England*, that have as much pretence to the Crown as any of the *Stewarts*? I know none my Lord, (sayes he there is the Duke of *Buck*) that is descended of the Familie of the *Plantagenets*; he named some of the *Edwards*, and in her right he should have the Barony of *Ros*, and in her Right he has as good a Title to the Crown of *England* as ever any *Stewart* had.

John Macnamarra Sworn.

Sir. *Francis Withins*, Pray give an account to the Jury of what discourse you have had with my Lord *Shaftsbury*.

John Macnamarra. My Lord, I was with my Lord *Shaftsbury* a little before he went to *Oxford*, before the Parliament sat there, and my Lord told me at that time, that he would take care, together with those that were with him at *Oxford*, for the Witnesses that were concerned in the Popish Plot.

Mr. *Harison*. Speak out pray Sir.

John Macnamarra. My Lord told me he would take care, with those that were with him, for the Witnesses that were concern'd in the Popish Plot; after my Lord went to *Oxford*, I writ him a Letter, giving his Lordship to understand, That whereas his Lordship was pleased to promise, That he would take care of the Witnesses, that he would be pleased to take care of me, as well as the rest of the Witnesses; after my Lord came home from *Oxford*, I went to him, to see what was done. His Lordship was pleased to express himself and say, That the King was Popishly affected and did adhere to Popery, and that he took the same methods that his Father before him took, which brought his Father's Head to the block, and we will also bring his thither; and told me also, that he told some persons of Quality that this would fall out Five years before; at the same time my Lord told me, That there was a Collection of Money made, and that the meeting was at the Sun Tavern, and that there came a *Tory* Lord in to hinder their proceedings, but sayes he, we do remove to Ironmonger-Lane, and sayes he, you shall hear further in a fortnight. I came to my Lord a fortnight afterwards, and his Lordship was pleased to tell me, that there was provision made for the Witnesses, and that it was in the hand of one Mr. *Reeve* that was Servant to Sir *Thomas Player*; there was one Mr. *Ivey*, and I think my Brother was by too; when his Lordship spake these words; he said that the King was a Faithless man, that there was no Credit to be given to him, and that the Dutchess of *Mazarine* was his Cabinet Council, who was the worst of Woman-kind, This is all that I have to say, My Lord.

Sir *Francis Withins*. Do you Remember nothing at any other time?

John Macnamarra. No.

Sir *Francis Withins*. Did you hear any thing about deposing the King?

John

John Macnamarra. Yes, he did at the same time say, the King deserved to be deposed as much as ever King *Richard* the Second did.

Dennis Macnamarra.

Mr. *Sanders.* Tell these Gentlemen whether you have had any discourse with the Earl of *Shaftsbury.*

Dennis Macnamarra. He said, my Lord, that the King was a man that ought not to be believed, and there was no belief in him, and that he ought to be deposed as well as King *Richard* the Second, and that the Dutchess of *Mazarine* was one of his Cabinet Council, and that he did nothing but by her Advice.

Sr. *Francis Withins.* Begin again.

L. C. J. Raise your voice a little, for the Jury don't hear you.

Dennis Macnamarra. That the King is a man that ought not to be believed, that there was no belief in him, & that he ought to be deposed as well as King *Richard* the 2d. and that the Dutchess of *Mazarine* was his Cabinet Council, and that he did nothing but by her consent.

L. C. J. Who was with you at that time?

Dennis Macnamarra. There was Mr. *Ivey*, and my Brother at his own House.

L. C. J. when was this?

Dennis Macnamarra. I was at the latter end of March or the beginning of *April.*

Sir *Francis Withins.* You say Mr. *Ivey* was by at the same time?

Dennis Macnamarra. Yes.

Sir. *Francis Withins.* Call Mr. *Ivey.*

Jury. What place was it in?

D. *Macnamarra.* In his own house.

Edward Ivey sworn.

Mr. *Ivey.* My Lord, soon after the Parliament was dissolv'd at *Oxford*, I was at my Lord *Shaftsbury*'s house, where he was speaking against the King, and said, that he was an unjust man, and unfit to Reign, and that he was a papist in his heart, and would introduce Popery.

Jury. Say that again.

Mr. *Ivey.* I tell you I was at my Lord *Shaftsbury*'s house, where he was then speaking against the King, saying that he was altogether unjust and not fit to Reign, and he wonder'd he did not take example by his Father before him, and did really believe that he was a Papist in his heart, and intended to introduce Popery. I was sometime after with him and I told him one *Haines* had told me he had something to discover about the death of Sir *Edmond-bury Godfrey* and several other things, and my Lord desired to see him, and I brought Mr. *Haines* to his house, and he desired him that what he had to say he would put in Writing, and he should have a pardon, and that if the King did deny it, as he dares not deny it, but if he does, we will rise upon him and force him?

Sir *Francis Withins.* Had you any other discourse, at other times?

Mr. *Ivey.* Yes I had other discourse but not to this purpose.

Sir *Francis Withins.* was you frequently with him?

Mr. *Ivey.* I was frequently with him; he desir'd at the time I was with him to bid *Colledge* to come to him, and I went and came again to *Haines* with instructions how to proceed, and I took his examination of him, and carry'd it to my Lord, and desir'd it might be explain'd what he meant by the Tall Black-man, and says he, if he does

 mean

meaning the King, he must explain himself, and speak of the King, or the Duke of *York*, or the rest, and if he does, we will take care of him as long as he lives, but unless he does, we will do nothing for him, and I was with him with my Lord *Shaftsbury*, and my Lord *Shaftsbury* did exclaim against the King.

Sir Francis Withins. What words did he speak?

Mr. Ivey. He said he was altogether an unjust Man and not fit to Reign, and that he believed he was a Papist in his heart, and design'd to introduce Popery and therefore they designed to depose him, and set up another in his stead.

Sir. Francis Withins. Do you remember any discourse of *Richard* the Second, at that time?

Mr. Ivey No Sir, I do not remember any thing of it.

Bernard Dennis Sworn.

Sir Francis Withins. Pray tell the Jury what discourse you had with the Earl of *Shaftsbury* at any time, and where it was.

B. *Dennis.* My Lord, I came upon a design to make clear the Plot in General, and far as I have travell'd, as in *Ireland*, *France*, *Spain*, *Maryland*, *Virginia* and *England*, and upon that account I was brought before a Justice of the Peace, in *Westminster* in *November* last, this time 12 month, and Examin'd before Justice *Walter*, a Justice of the Peace, and from thence to the Committee of the House of Commons, of whom Collonel *Birch* [illegible] was Chairman, and gave in my Evidence, and being called upon at the Tryal of the Earl of *Stafford*, I was commanded as I suppose to the Earl of *Shaftsbury*, and upon the Account he sent me word of it, by *William Hetherington*, who was then very intimate with the Earl of *Shaftsbury* to my knowledge; and *william Hetherington* came to me several times, and he precisely was my maintainer at that time, that is, to find me what ever I wanted, and provide me my Lodging, and carry me to some place where accomodation might be more better for me. Upon this account one time the Earl of *Shaftsbury* sent to me, desiring that I would wait upon him at his own house. I came to him, and there in the Gallery of his own house, walking very slowly he told me, what I gave in of the Plot in general was very good and sufficient, but as to the Queen and the Duke of *York*, that I should speak more home and positive against them, at least that I might be a corroborative to others in what they Swore against them. This was all at that present time, that the Earl of *Shaftsbury* spake to me, and he desired me to go home to his Lodging. With that I went home, and within a Month le may be, or thereabouts, he sent for me again, by the same *William Hetherington*, and *William Hetherington* told me, that the Earl of *Shaftsbury* would speak with me. So I came & waited upon his Lordship at his own House, and says he, Mr *Dennis* I understand that you are a Clergy man. Yes my Lord, said I, and says he, I would advise you to take a black gown, and I will prefer you to a Benefice, till such time as this business is over, and says he, at the end of this business I will not fail to prefer you to a better, and in the mean time I would advise you to take a black gown; and this was a little, as I remember, after the Parliament was Dissolv'd at *Oxford*, and he sent a Gentleman out of his own House along with me, to a Doctor of Divinity living hard by *Lincolns Inn Fields*, Dr. *Burnet* by Name as I remember, and the Gentleman acquainted the Doctor what I was, and about what occasion I came, there, so the Doctor indeed discourst with me very familiarly, and return'd thanks to the Earl for me into his conversation rather then another's. What discourse we had then was nothing to the matter, it was about matters of Conscience, and Religion. But Mr. *Colledge* that was the Joyner here in

Town,

Town, and Executed afterwards, being familiar with me brought me to one Mr. *Ferguson* a Minister, as I suppose of the Presbyterian form, for he goes in their garb as near as I can tell, and Mr. *Ferguson* at our first meeting was in *Richard*'s Coffee-House, in an upper room one pair of Stairs, and in some company; and *Colledge* going to him brought him aside, and spake to him concerning me, and he came to me apart, and discoursed with me; from whence he brought me to a Bookseller's Shop, and bought for me the Articles of the Church of *England*, and in all these discourses there was a hand, as *Colledge* told me, of the Earl of *Shaftsbury* who did procure him, and sent to Dr. *Burnet* to bring me that way. I do not deny neither, that I had an inclination before I left *Ireland*, and when I was in *Spain*, and when I was in *France* for to become a Protestant, according to the Laws and Rules of the Church of *England*. The force of what I have to say is this, The Earl of *Shaftsbury* one day after all these things were past, and after the Parliament was dissolved at *Oxford*, discoursing with me in his own House, Major *Manley* being in the same Room then who lives beyond *Tower-hill*, he asked me what was the present occasion I came to him there, and it was pretty early in the Morning, and the Earl had a Barber to trim him in his Room. I told him my occasion was then, That I was something low in Money, that I did a little want money at that time, and did not know to whom to speak for any thing but his Lordship, and said I came to tell you so. Well, said he, Mr *Dennis* I have appointed Mr. *John Rouse* whom you know, for to give you and maintain you in money, go to him especially once a week, and he will give you money. And said he, Mr. *Dennis*, what is the Number of your name in the Country as near as you can tell, how many are you? My Lord, said I to tell you exactly what number they be of, I cannot at present, but within a little time, I may tell you, I believe really there may be upon the matter of 3, or 400. able men of my Name, in the County where I was born. Sayes the Earl of *Shaftsbury*, Mr. *Dennis*, I would very willingly have you to advise those of your name, and those of your Friends for to be in a readiness, when ever occasion shall serve, and to stand by, if occasion should be, for to assist the Common-wealth of *England*; for we do really intend to have *England* under a Common-Wealth and no Crown: and sayes he, we intend to live as we see *Holland* does, that is, to have a Common-wealth, and to have no Supream head, particular man, sayes he, or King, nor owe Obedience to a Crown; and, sayes he, we will extirpate the King, and all his Family as near as he can; and Mr. *Dennis*, sayes he, I do admire that your Nation should be such Fools as they are, for it is very certain that King *James*, Queen *Elizabeth*, King *Charles* the First, sayes he, and the King that now is, does wrong you to very destruction; and, sayes he, if you had been under a Common-Wealth, the Common-Wealth would take more pitty of your Nation, and the Gentry of your Nation, then any doe of them now, in this time wherein the King Governs, and upon this I doe count the *Irish* fools. This is all that I can say.

L. C. J. The King's Council declare they will call no more Witnesses, for they think they have called enough already, and there are several of them that do swear Words that are treasonable in themselves, if you do desire to ask any of the Witnesses any thing, you shall have them all call'd one by one.

Foreman. My Lord, we will walk up again, and Consider what Questions to ask, and come again presently.

Mr. *Papillon.* It seems they will call no more Witnesses then these.

L. C. J. Not against the Earl of *Shaftsbury*, being you are charg'd only with that.

Mr. *Papillon.* It is so my Lord, but we pray we may be satisfied upon the Statute the Indictment is grounded, because we may hear it read before we go up, because your Lordship speaks of two different Statutes, the 25th of *Edward*, and you mention

 the

the Statute of the 13th. of this King: your Lordship in your discourse to the Jury mentioned them both, we pray your Lordship to acquaint us upon what Statute it is grounded, whether upon both or one of them.

L. C. J. Look ye Gentlemen, this is grounded upon the Statute of this King, though there is enough to find an Indictment of Treason upon the Statute of the 25th. of *Edward* the Third. That which is Treason within the Statute of the 25th. of *Edward* the Third is Treason, within this Statute, so this is the more Copious Statute; for as I told you before, this Statute has enlarged that of *Edward* the Third in a great many Particulars; and therefore look ye Gentlemen, always consider this, when one Statute contains the Matter of another, and inlarges it, the Indictment is always upon the last Statute, that being the more Copious Statute: But you are to consider both.

Fury. The Indictment is *Contra formam Statut.* and it being *Contra formam Statut.* it may be understood, *Statutorum* or *Statuti*, so that all Statutes that may be the Foundation of this Indictment, you may go upon.

Fury. We desire to know whether any of these Witnesses stand indicted or no.

L. C. J. Look ye, Gentlemen, don't talk of this, but consider with your selves, an Examination or Proofs concerning the Credibility of the Witnesses is not properly before you at this time; for I must tell you, and inform you as to that, you are not to Examine properly here concerning the Credibility of the Witnesses, that is not to be proved or controverted here before you, that is Matter upon a Trial by the Petty Jury, for there the King will be heard for to defend the Credit of his Witnesses, if there be any thing that can be objected against them; It is proper for the Prisoner to do that, you are only to see whether the Statute be satisfied in having Matter that is Treasonable, and having it witnessed by two Men, by two Witnesses, that is not to be *prima facie* Credible, unless you of your own knowledge know the contrary; for otherwise, you must consider what a disadvantage this would be in all such Cases, if the Credibility of the Witnesses should be examined before the Grand-Jury, where the King is not Present, nor in a possibility of defending the Credit of his Witnesses; the Prisoner or the Party Indicted is not here; that is a proper Objection when he comes upon his Tryal, for all men are intended Credible, till there are Objections against them, and till their Credit come to be examined on one side and the other.

Mr. Papillon. May it please your Lordship thinks good, I will beg this, I desire humbly and with submission, whether your Lordship doth not think that we are within the compass of our own Understandings and Consciences to give our Judgment?

L. C. J. Your own Understanding and Consciences, yes; but look ye Gentlemen, Mr. *Papillon*, will we are not left to consider the Credibility of the Witnesses; we cannot satisfie our Consciences.

L. C. J. Look ye Gentlemen, you are to go according to the Evidence of the Witnesses; you are to consider of the Case according to the things alledged and proved, unless you know any thing your selves; But if any of you know any thing of your own knowledge, that you ought to take into Consideration, no doubt of it.

Jury. Very well, my Lord.

L. C. J. The Grand-Jury are to hear nothing but the Evidence against the Prisoner; therefore for you to enter into proofs or expect any here, concerning the Credit of the Witnesses, it is impossible for you to do Justice at that rate.

The Jury withdrew, and the Court adjourn'd till 2 a Clock.

L. C. J. Let the Witnesses be brought in one by one.

Foreman. We will first ask a Question of Mr. *Gwyn.*

Mr. *Gwyn.*

Mr. *Gwyn.*

Foreman. Who put up the Papers?

Mr. *Gwyn.* I put up the Papers my self.

Foreman. Who went in with you?

Mr. *Gwyn.* None but my Lords Servants, *I* think, were there; But I put up the Papers my self.

Foreman. Pray, Sir, whose Hand writing is that Paper of?

Mr. *Gwyn.* Indeed, Sir, I can't tell.

Foreman. How did it come into my Lord *Shaftsbury's* Closet?

Mr. *Gwyn.* My Lord, this is a strange Question. Indeed, Sir, I can't tell; all the Papers that I found in that Closet I put into that Bag.

L. C. J. To satisfie the Jury, was the Paper in the Closet before you came there?

Mr. *Gwyn.* My Lord, it was certainly there, for there I found it; I don't know the particular Paper, but all the Papers in that Bag were there.

L. C. J. From whom had you the Key?

Mr. *Gwyn.* From my Lord *Shaftsbury.*

Foreman. Don't you know, Sir, there was a Discourse in the Parliament of an Association:

Mr. *Gwyn.* Sir, I was not of the last Parliament. Sir, I know nothing of it.

Foreman. You have not heard then, that there was such a thing in Parliament concerning an Association?

Mr. *Gwyn.* *I* heard of an Association talked of.

Foreman. Mr. Secretary, I would ask you some questions: If you did not know of Debate in Parliament of an Association?

Mr. Secretary. I was not present at the Debate; but there was a talk in Town of an Association.

Foreman. Did not you hear of it in Parliament?

Mr. Secretary. Indeed there was an answer to a Message from the House of Commons that had some thing in it that did strongly imply an Association; but this particular Association I do not remember to have heard propos'd.

Foreman. Don't you remember in the House of Commons, Sir, it was read upon occasion of that Bill?

Mr. Secretary. I heard such a thing spoke of; but at the Reading of it I was not present, to the best of my remembrance.

Bohetun. What date, Sir, was the Warrant for my Lord *Shaftsbury's* Commitment?

Mr. Secretary. I refer my self to the Warrant, for that I don't know the Date.

L. C. J. Mr. Secretary, you must speak about the time that it was.

Mr. Secretary. Sir *I* was the man that had the Honour to Sign that Warrant by which the Serjeant at Arms did Apprehend my Lord *Shaftsbury*, but what day of the Month *I* do not remember; and therefore I refer my self, if you please, to the Warrant, and to the Serjeant at Arms.

Foreman. What Month was it?

Mr. Secretary. Sir?

Foreman. About what Month?

Mr. Secretary. *July.*

Foreman. The beginning of *July?*

Mr. Secretary. Sir, I do not remember the day precisely; for I did not foresee that Question would be asked me; but I refer my self to the Warrant, and that is beyond all doubt.

Foreman. I suppose all these Witnesses that are examin'd, were examin'd before the Committee.

Mr. Secretary,

Mr. Secretary. Sir, They were examin'd, and I was present at the Examination.

Foreman. All of them?

Mr. Secretary. I don't know whether all of them; but I am sure I was at the Examination of several of them.

Foreman. How many, Sir?

Mr. Secretary. I can't tell truly how many.

Foreman. Call Mr. *Booth.*

Officer. He is not here, the Tipstaff has him some where.

Foreman. Is that Witness a Prisoner?

L. C. J. *Booth* is a Prisoner.

Foreman. Then call Mr. *Turberville.*

Mr. *Baptiste.* Is Mr. *Turberville* there?

Officer. Here is Mr. *Booth* come now.

Mr, *Godfrey.* Put *Turberville* out again.

Foreman. Mr. *Booth*, you told me of a Discourse that past between the Lord *Shaftsbury* and your self, we desire to know where it was, and when?

Mr. *Booth.* It was in *Thanet* house, Sir, where he lived, about a week or Ten days before the Parliament sate at *Oxford.*

Foreman. The precise time.

Mr. Booth. I cannot be more precise.

Foreman. Who introduced you?

Mr. *Booth.* I think one Mr. *Wilson* led me into the Chamber.

Foreman. Who was present when the Discourse was?

Mr. *Booth.* None but He and I, Sir.

L. C. J. If we have these Noyses, we will have every one of you put out of Court.

Mr. Att. General. Richardson, Richardson, Pray turn them all out; they are brought in on purpose.

Mr. *Booth.* It was not the first, second, nor third time that I had waited upon the Lord of *Shaftsbury.*

Foreman. In what Room was it that my Lord spake those words to you?

Mr. *Booth.* It was in the Room he usually sits in, on the left hand as we came out of the long Gallery, I think we pass'd through the Room before it, Wainscoted about, as I remember, and hung. I have been in that Room with him four or five times, I am sure.

Foreman. After this Discourse with you, how long was it before you spake of it to any body else?

Mr. *Booth.* Truly I think I did not publish this Discourse that my Lord and I had, from the time it was, till within this Seven or Eight weeks.

Foreman. You were never examined before them as a Witness?

Mr. *Booth.* No, Sir, I never was, nor no body will pretend it, Purpose.

Foreman. To whom, Sir, did you give your first Information?

Mr. *Booth.* Sir, I sent my first Information in writing to the Lords in the Council.

Foreman. By whose hand?

Mr. *Booth.* By the hand of *Walter Bents.*

Foreman. You had several Discourses with him; Had you easie Admission, or was it with difficulty, you came in to his Company?

Mr. *Booth.* I was admitted by the Influence of Captain *Wilkinson* at first, and ever after went with him, and had easie admittance and familiarity with him.

Foreman. Was he with you every time?

Mr. *Booth.* No, not every time; he was not this time with me.

Foreman.

Foreman. Did he talk to this purpose every time?

Mr. Booth. Something to this purpose he did talk every time, but not so fully, for I was first acquainted with this Business of *Oxford* by Captain *Wilkinson*, and I had a great desire to understand it from my Lords own mouth, because I would be satisfied in my Lord's Interest, as well as his Conduct.

Foreman. Pray, Sir, what Education have you had?

Mr. *Booth.* I have had the Education of a Gentleman, an Academical Education.

Foreman. Were you ever in Orders?

Mr. *Booth.* Yes.

Foreman. Do you own your self to be in Orders still?

Mr. *Booth.* How do you mean to be in Orders? I tell you I was in Orders; but I am not now Beneficed.

Foreman. Do you officiate as a Minister?

Mr. *Booth.* No.

Foreman. Were you ever an Attorney's Clerk?

Mr. *Booth.* Never.

Foreman. Or a Justice's Clerk?

Mr. *Booth.* Never; nor to no Mortal.

Foreman. Were you ever Indicted for any Felony?

Mr. *Booth.* No.

L. C. J. That is a Question not to be asked by any Jury-man of any Witness whatsoever: No man is bound to discover any thing of that Nature that is Criminal, concerning himself.

Foreman. If it be pardoned, my Lord, he may.

L. C. J. Pardoned, or not pardoned, he is not bound to accuse himself nor to fix a Scandal on himself.

Mr. *Booth.* No, my Lord, *Nemo tenetur seipsum prodere.*

L. C. J. Sir, we shall not suffer such Questions. I will tell you the reason: It is proper for a Prisoner that stands upon his Justification to object it, but then the Prisoner must prove it: It lies upon him to prove it.

Mr. *Papillon.* Mr. *Booth*, you told us of Fifty men that were Listed under Captain *Wilkinson*. Do you know any more of them?

Mr. *Booth.* I never directly conversed with any other.

Mr. *Papillon.* Did you know any more of them?

Mr. *Booth.* No, not directly; I did not, but only by Captain *Wilkinson*'s Information.

Mr. *Papillon.* How many Stories was that Room where you talked with my Lord?

Mr. *Booth.* One pair of Stairs, as I remember.

Mr. *Godfrey.* Was it the right hand as you came in?

Mr. *Booth.* I think so.

Mr. *Godfrey.* Was it the right hand or the left?

Mr. *Booth.* I went into the long Gallery first, and stayed there about a quarter, or half an hour, and I remember very well I spoke upon some Affair that were there, to divert my self a while; and when I was called in, went out of the Gallery on the left hand, and went through another Room before I came into my Lord's Room.

Foreman. Did you never hear my Lord speak Treason in any House but his own?

Mr. *Booth.* I never had occasion to hear this Discourse from my Lord, but in his own House; I never waited upon him in any other House.

Foreman. Was you never desired to be a Witness against my Lord *Shaftsbury*?

Mr. *Booth.* Not till I intimated some thing of it.

Foreman. Who was that to?

Mr.

Mr. *Booth.* That was to Mr. *Bunt*, I told you before so.

Foreman. And what then?

Mr. *Booth.* When he told me of his Business with the *Yorkshire* Attorney *Brownrigg*, I did say again, I did not know what my Lord had done as to any thing of *Irish-men*, but I was sure there was something as to *English-men*, as to that purpose.

Foreman. Did he propose any Reward, or any thing of that Nature?

Mr. *Booth.* Not a Farthing; for I think he had no Commission to do it.

Foreman. Are you acquainted with one *Callaghan* and *Downing*, two *Irishmen*?

Mr. *Booth.* No,

Mr. *Godfrey.* Were you never in their Company?

Mr. *Booth.* Not that I know of.

Mr. *Godfrey.* Did you ever hear their Names?

M. *Booth.* I don't know that I have.

Foreman. Were you in their Company lately?

Mr. *Booth.* Not, as I know of. I do not remember either their Names or their Persons, nor do I know them from other men.

Foreman. Do you know one Mr. *Shelden*?

Mr. *Booth.* No.

Foreman. Do you know one Mr. *Marriott*?

Mr. *Booth.* No, Sir: I have heard of one *Marriott*, that did belong to my Lord Duke of *Norfolk*.

Foreman. When were you in his Company?

Mr. *Booth.* Never that *I* know of.

Foreman. Has no body discourse you from him?

Mr. *Booth.* No, no body.

Foreman. Did you never hear of any Witnesses he sent to his Tenants?

Mr. *Booth.* I have heard from *Bates* about *Brownrigg*, about *Irish* Witnesses.

Mr. *Godfrey.* Did you never hear of any *Irish* Witnesses sent down by Mr. *Marriott* to the *Isle of Ely*?

L. C. J. We gave you all the liberty in the World, hoping you would ask pertinent Questions, but these are Trifles. I did not expect that any wise men would have asked these Questions. Mr. *Godfrey*, was it to the purpose whether Mr. *Marriott* sent any *Irish* Witnesses to his Tenant, or no? What is that to this business?

Foreman. My Lord, I have it under the hand of the Clerk of the Council.

Mr. *Booth.* Pray, Sir, Did any inform you that I had any Correspondence with this man?

L. C. J. Nay, Sir, you must ask no Questions.

Mr. *Godfrey.* Mr. *Booth*, do you go under no other name but *Booth*?

Mr. *Booth.* No, nor never did in my life.

Mr. *Booth.* My Lord, I cannot go in safety here for the Tumult.

L. C. J. Let the Officers secure him: Mr. Sheriff, look to him, that the man be secure and safe; I will require him at your hands else.

Mr. Sheriff *Pilkington.* What should I do?

L. C. J. Send your Officers to protect him, as becomes you, that he may be secured from the Rabble here.

Mr. *Turberville.*

Foreman. Mr. *Turberville*, when you had this Discourse with my Lord *Shaftsbury*, who was present with you?

Mr.

Mr. Turbervile. One of his Servants; truly I cannot tell his Name.

Foreman. No body else?

Mr. *Turbervile.* I know the Name of none of his Servants but *Howard*, I cannot remember any body else.

Foreman. Did he carry you up to my Lord?

Mr. *Turbervile.* It was he, I think, told me I might go up into the Room.

Foreman. What time was this?

Mr. *Turbervile.* In the Morning.

Foreman. What time was it when you had this Discourse with my Lord *Shaftsbury*?

Mr. *Turbervile.* It was in *February*.

Foreman. What time in *February*?

Mr. *Turbervile.* About the beginning; I cannot tell exactly to a day.

Foreman. How long was this before you communicated this to any body?

Mr. *Turbervile.* It was about the Fourth of *July*.

Foreman. Then you concealed it from *February* to *July*: Who did you Communicate it to first of all?

Mr. *Turbervile.* The first Deposition I gave was to Mr. Secretary.

Foreman. Which Secretary?

Mr. *Turbervile.* Secretary *Jenkins*.

Foreman. Pray what Room was it you had this Discourse in?

Mr. *Turbervile.* Sir, it was the Room at the upper end of the Dining Room; I think they call it the Dining Room; at the upper end of the Room, and turns on the left hand where he lay.

Foreman. Did you meet with no body about the beginning of *July*, after my Lord's Commitment, and tell them when you were challenged, and told you were to be a Witness against him, As you were alive you knew no such thing?

Mr. Attor. General. My Lord, this is not to be allowed: This is private Instructions which the Jury are not to take.

Foreman. No, Sir, it is not private Instructions. Did you not speak such words to *William Herbert*?

L. C. J. Have you had any information concerning this to Mr. *Herbert*?

Foreman. My Lord, I have a long time ago. My Lord, such a person did tell me so, and so, and set down the day; and he then said, he was very angry with him for it.

L. C. J. Look ye, Gentlemen, what Discourse you take up at random in every Coffee-house? Is that fit to be brought in when Treason is in question against the King's Life? Are these Coffee-house Discourses, do you think, ground enough for you to cavel at Persons, because you have heard this Discourse in a Coffee-house?

Foreman. My Lord, I never was in a Coffee-house in my life with Mr. *Herbert*; but he declared this to me some Months ago.

L. C. J. And you think this is ground enough for you against him?

Mr. *Papillon.* My Lord, we only ask this Question, whether he hath not contradicted this, or said the contrary to any body else?

Mr. *Turbervile.* I do not remember that ever I spake one word to Mr. *Herbert* in my life; and I can give you one reason. For I was discarded by all the People of my Lord's Interest at that time; and if I had given under my hand that I had known nothing against him, I believe I might have been in their favour as much as before.

Mr. Papillon. Were not you one that Petitioned to the Common Council in *London*?

Mr. *Turbervile.* I did, Sir.

Mr. *Papillon.* And did not you declare then that you were tempted to witness against your Conscience?

Mr. *Turbervile.* I believe I never read the Petition, It was drawn by the Order of Mr. *Colledge*, by a Man that lives about *Guildhall*; by a Scrivener about *Guildhall*, and I signed that Petition, but never read it, nor knew what was in it.

L. C. J. Mr. *Richardson*, any you Officers, watch by those men that make a noise, and bring me in one to make an Example.

Mr. *Turbervile.* My Lord, I go in danger of my life, for the People threaten to stone me to death, and I cannot go safe to my Lodging.

Mr. Papillon. What was your design in signing that Petition? what did you look for?

Mr. *Turbervile.* The design was that the City should take care of us.

Mr. *Papillon.* Were you in a poor Condition?

Mr. *Turbervile.* Truly I was not very poor, though I was not over full of Money.

Mr. *Papillon.* It is a strange thing that you should Petition for Relief, if you were not in want.

Mr. *Turbervile.* We were told by some Members of the House of Commons, that there was a Vote in the House of Commons ready to pass, that the City should advance Money for the support of the Witnesses, and that we would Petition that they would answer the Design of the Parliament.

Mr. *Papillon.* What Members were they?

Mr. *Turbervile.* It was a Member of the House of Commons that told me so, I will assure you two of them.

Mr. *Papillon.* Did never any body move you, or desire you to be a Witness in this case against my Lord *Shaftsbury*?

Mr. *Turbervile.* No body in my life. When I came to speak the truth of what I knew, I did it voluntarily.

Mr. *Papillon.* You did it voluntarily?

Mr. *Turbervile.* I did, I will assure you.

Mr. *Papillon.* Do you know any thing more than what you have said here?

Mr. *Turbervile.* No, not one tittle.

Mr. *Papillon.* Mr. *Turbervile.* I desire to be satisfied in one thing, whether my Lord *Shaftsbury* was Committed before or after your Information?

Mr. *Turbervile.* Truely, Sir, I cannot tell positively, as to that point; but I believe it was before; I cannot tell.

Mr. *Papillon.* Did you hear my Lord speak these words in any other Room or Place?

Mr. *Turbervile.* No, indeed, I did not.

Mr. *Papillon.* It was about the Fourth of *July*, you say, your Depositions were taken?

Mr. *Turbervile.* About that time, I suppose the Fourth of *July*..... I hope your Lordship will take care that we be not knock'd on the head.

L. C. J. That we give in Charge to Mr. Sheriff; and see you do take care of the King's Witnesses at your peril. It is a reflection, not only upon the Government of the City, to suffer these Disorders, but upon the whole Kingdom: Therefore, Mr. Sheriff, look the Witnesses come by no hurt.

Mr. *John Smith.*

Mr. Papillon. Mr. Smith, the Jury ask you a Question, whether or no you did not use to go by the name of *Barry*?

Mr. Smith. Sir, what names I have gone by is not pertinent to this Purpose; I tell you I have gone by several Names, as all Popish Priests do.

Mr. Papillon. Did you never go by the Name of *Barry*?

Mr. Smith. It may be I might, I have gone by several Names, as all Popish Priest do.

L. C. J. Did you ever go by the Name of *Barry*?

Mr. Smith. I did, my Lord; it is usual for Popish Priests so to do.

Mr. Papillon. What Religion are you of, *Mr. Smith*?

Mr. Smith. I am a Protestant, Sir.

Mr. Papillon. How long have you been a Protestant?

Mr. Smith. Many years, under your Lordships favour.

Mr. *Papillon.* When were you first Converted?

Mr. *Smith.* First Converted?

Mr. *Papillon.* Ay, to the Protestant Religion: You say you have been one many years?

Mr. *Smith.* I have been a Protestant, and was perverted to the Popish Religion, and afterwards became a Protestant again.

L. C. J. Bring in one of those men that make the noise. Cannot you bring in one of them?

Mr. *Papillon.* When did you receive the Sacrament?

Mr. *Smith.* I believe not above Three Months ago, as the Rector of *Bow-Church* will inform you: I have it under the Church-wardens hands in other places in *London*.

Mr. *Papillon.* Have you been desired to be a Witness, or did you do it voluntarily?

Mr. *Smith.* Never desired, I declare it; I did it voluntarily of my self.

Mr. *Papillon.* When did you give in your Evidence first?

Mr. *Smith.* Truly I cannot exactly tell when I gave it in; I did not keep an account of it.

Mr. *Papillon.* What Month?

Mr. *Smith.* I cannot tell.

Mr. *Papillon.* Was it before my Lord was Committed, or after?

Mr. *Smith.* I believe it might be a little after. Whether it was before or after, I cannot exactly tell.

Mr. *Papillon.* To whom did you give your Information?

Mr. *Smith.* My Lord, they commanded the people to stone us to death.

L. C. J. Who did?

Mr. *Smith.* Several persons, and when we were at the Tavern, Dr. *Oates*'s man came out and gave the Rabble a Bottle of Wine, and bid them knock us down.

L. C. J. Do you know what the mans name is?

Dr. *Oates* I know nothing of it my Lord.

L. C. J. What is your mans name?

Dr. *Oates*, I keep half a dozen men, my Lord.

L. C. J. I hope you keep no men to affront the King's Witnesses.

Dr. *Oates*, No my Lord, it is a mistake, I know nothing of it, we went thither to refresh our selves.

Mr. *Papillon*, Mr. *Smith*. Who did you give your Information to?

Mr. *Smith*, What Information? Mr. *Papillon*, The first Information.

Mr. *Smith.* My Lord, am I to answer to these questions?

L. C. J. Ay Answer them, tell them.

Mr. *Smith.* My Lord, the Information I gave into Secretary *Jenkins*, but I gave notice long before of what I intended to do to other persons.

Mr. *Papillon.* When did you hear these words; speak to the time exactly?

Mr. *Smith.* Which words do you ask?

Mr. *Papillon*. Those you mentioned even now.

Mr. *Smith*. Sir if you please, I know you take all in short hand, if you ask me what words, I will tell you, for if I do not express my self in the same words as before, you will take hold of me.

L. C. J. I will tell you this, this may be an ill question, for he told you, he had discourse my Lord *Shaftsbury* at a great many times, and that at sometimes he said these words, at other times other words, and for you to catch him upon a question, it doth not shew a fair inclination.

Mr. *Papillon*. My Lord, under your Lordships favour, we only desire to discover the truth, we are not for catches.

L. C. J. Ask him then which of the words you would have him declare the time of, and he will tell you.

Mr. *Papillon*. Let him speak his own words, it was about the time when *Hetherington* went thither.

M. *Smith*. Truly I will answer that as punctually as I can, the month or day I cannot well tell but the person that came for me was major *Manly*; and he came to *Bethels* Club, what time that was, I cannot say, but if you please to inform your selves of those Gentlemen that I name, I believe they will tell you Mr. *Stokes* was there present, and knew very well I went to my Lord *Shaftsbury* that night, and returned to the Club again.

Mr. *Godfrey*. Was it in the Evening or the morning?

Mr. *Smith*. Mr. *Godfrey*. Clubs are usually at night I suppose, you know that well.

Mr. *Papillon*. Where did you see my Lord *Shaftsbury*?

Mr. *Smith*. It was in his Dining Room.

Mr. *Papillon*. Did you hear these words in any other place, or at any other time, or any Treasonable words against the King?

L. C. J. Look you Gentlemen, he told you of several other words at several other times.

Mr. *Papillon*. But he said all at his house, my Lord.

L. C. J. Ay, but at several times.

Mr. *Smith*. I know Mr. *Attorny*, what the Gentlemen would be at very well.

L. C. J. Answer them whether you did hear him speak any words that you conceive Treasonable at any other time?

Mr. *Smith*. I did not indeed.

Mr. *Papillon*. In another place? Mr. *Smith*. I do say I did not.

Mr. *Papillon*. Did you petition to the Common Council?

Mr, *Smith*. No Sir I never did.

Mr. *Papillon*. Are you an English-man or an Irish-man?

Mr. *Smith*. Thats no matter, no more than if I were a French-man or a Dutch-man.

L. C. J. Give them an account whether you are an English-man or an Irish-man.

Mr. *Smith*. My Lord, I beg your Lordships pardon for that, if I were an Irishman, whether thereupon my Evidence would be prejudiced.

L. C. J. Look you Mr. *Smith*, I do hope the Gentlemen of the Jury have more discretion among them all, than to think that an Irish-man is not a good witness, I hope they are not such persons.

Mr. *Smith*. My Lord, if you please whilst I was in the City amongst them, I never petitioned to the City, I never had a farthing from them, nor ever spake to any for it, I never had any occasion for it, but if I had, it is probable I have enough in *England*, and other places, without being beholden to your Common Council.

L. C. J. Will you ask him any more questions?

Jury. No, no.

Mr.

Mr. Papillon. Is *Mr. Smith.* Gone? I would ask him one word, we would fain know what allowance you have, or what you receive, if you have any allowance, from any body?

Mr. Smith. From whom?

Mr. Papillon. Nay, I know not from whom: I ask whether you have any from any body?

L. C. J. Look ye Gentlemen, is that a question that is pertinent? I wonder you will go to such questions: we allowed you to ask questions your selves, because we look upon you as men of reason.

Mr. Papillon. My Lord, I do not know but it may be a proper question to ask him if he have any allowance from any man upon this account.

L. C. J. Upon what account.

Mr. *Papillon,* Upon this account, if he sayes he has none 'tis an answer.

L. C. J. Do you intend your question, whether he is bribed to give Evidence, if you mean so, speak plain.

Mr. Papillon, We ask if he have any allowance?

Mr. Smith, You don't ask me how the 6 or 700 *l.* was made up.

L. C. J. You that are upon your Oaths should have a care what you do.

Bayn Haynes.

Mr. Papillon, Mr. Haynes. when did you give in your Information upon this matter.

Mr. Haynes, Against the Earl of *Shaftsbury,* Sir? *Mr. Papillon,* Ay.

Mr. Haynes, The day that I was taken by the messenger.

Mr. Papillon, That was before my Lord was committed, was it not?

Mr. Haynes. Yes Sir, it was before my Lord was committed.

Mr. Papillon, Did you ever make any other Information to a Justice of the Peace?

Mr. Haynes, Not of my Lord of *Shaftsbury.*

Mr. Papillon, Nor touching this matter?

Mr. *Haynes,* No, not any information upon Oath, I may have discourse with a Justice of the Peace.

Mr. *Papillon.* Did not you give in an Information of a Design against the Earl of *Shaftsbury.* Mr. *Haynes,* To none but to Secretary *Jenkins.*

Mr. *Papillon.* You understand the question, whether you did give no Information of a Design against my Lord *Shaftsbury* to some Justice of the Peace?

Mr. *Haynes,* No no, to none but Mr. Secretary *Jenkins.*

L. *C. J.* You do not observe his question, did you ever give to any Justice any Information of a Design against my Lord *Shaftsbury.*

Mr. *Haynes,* Yes my Lord; I did to Sir *George Treby,* I made Affidavit before him.

Mr. *Papillon.* When was that? Mr. *Haynes,* I think it was in *March* last.

Mr. *Papillon,* What was that design against my Lord *Shaftsbury?*

Mr. *Haynes,* The design was what Mr. *Fitz-Gerald* told me, he told me he gave under his hand to the King, that the Earl of *Shaftsbury* did resolve to set the Crown upon his own head, or otherwise to turn the Kingdom into a Common-wealth.

Mr. *Papillon,* *Fitz-Gerald* told you this, and so you made affidavit of it?

Mr. *Haynes,* Yes, before Sir *George Treby.*

Mr. *Papillon,* What time?

Mr. *Haynes,* It was before the Parliament met at *Oxford.*

Mr. *Papillon,* So you say the words were, when were the words spoken that you mentioned?

Mr. *Haynes,* The words against my Lord? Mr. *Papillon,* Ay.

Mr. *Haynes,* He spake them to me a little before I made Affidavit, I cannot tell positively the time.

Mr.

Mr. *Papillon*, That was before his Commitment.

Mr. *Haynes*, Yes, yes, my Lord was Committed in *June* last, this Affidavit was made in *March* last before the Recorder of *London*.

L. C. J. North, When you ask him about the Information of the design against my Lord *Shaftsbury*, he says that was in *March* last, and when you ask him about the evidence he gives now, that was the same day he was apprehended by the Messenger.

Mr. *Papillon*, About *June* you say it was, that you say you gave in the Information against my Lord *Shaftsbury*.

Mr. *Haynes*, The Information I made against my Lord *Shaftsbury* was in *June* last, the 28 as to take it of *June* last.

Mr. *Papillon*, Where was it you had this discourse?

Mr. *Haynes*, I had several Conferences with my Lord.

Mr. *Papillon*, Did he every time say the same?

Mr. *Haynes*, The last time I spake with him was in *Iron-monger*-Lane, for Mr. *Whitaker* told me he would speak with me, and he would fain have me explain my self, what I did mean by the tall man I mentioned in the Narrative, and I went to his house and they told me he was there, and I sent up a Note, and he desired me to come up; but I sent word I did not care to come up, because I would not be known, and so he sent me word to meet him after Dinner, and when I came, my name is *Haynes* my Lord, said I and I, led his Lordship by the hand, and went in there, I had I believe a whole hours discourse with him, and pray my Lord said I among other questions, what Religion is the King of? truely says he Mr. *Haynes* he hath no more Religion than an horse; for saith he, they say Sir, he was inclined to Popery, when he came first to *England* says he, he had a tincture of Popery, and was much inclined that way, but since he was degenerated from all the Principals of Christianity. for he is just like a perfect Beast.

Mr. *Papillon*, This you say was in *Iron-monger*-Lane.

Mr. *Haynes*, Ay Sir, at a Pastery Cooks Shop.

Mr. *Papillon*, What time was it?

Mr. *Haynes*, After Dinner in the after-noon.

Mr. *Papillon*, In *June*, or when?

Mr *Haynes*, I cannot tell what time positively, it was about the time of the Trial of *Fitz Harris*.

Mr. *Papillon*, Was it the same time he spake about the Duke of *Buckingham*?

Mr. *Haynes*, No, no Mr. *Papillon*, When was that?

Mr. *Haynes*, That was when I was with him at his own house, and desired him not to expose me. Mr. *Papillon*, What time?

Mr *Haynes*, I cannot tell Sir, for I never thought I should be called to an account for it, and I cannot keep an Almanack in my head, and I desired them not to expose me to the King's fury for I heard the King was displeased with me: no says he you are mistaken, this is the best opportunity we can have, and if he will not give you a Pardon, we will raise the whole Kingdom against him in arms, and then he makes himself the Master and Author of the Plot, and consequently he must expect to be ruined unless he grant you a pardon. Mr. *Papillon*, Did you ever hear any other words then what you have now testified?

Mr. *Haynes*, Yes Sir, for I discoursed with him in *Iron-monger*-Lane a great while, and told him that our only and best way to have our ends of the King, was to Raise a Rebellion in *Ireland*, and that I had relations and friends, and could get discontented Persons enough, and his Lordship would do the work here.

Mr. *Papillon*, What, did you propound a Rebellion in *Ireland*?

Mr. *Haynes*, I offered to go beyond Sea, and that now was the best time to raise a Rebellion in *Ireland*, and he said that was not the best way, for they had other means to take, and so the discourse was waved.

Mr.

Mr. *Papillon*, And is that all?

Mr. *Haynes*, That is all I remember now.

Mr. *Papillon* Do you know of any other place or time?

Mr. *Haynes*, I was with him at his house.

Mr. *Papillon*, Were you ever a Witnesse for my Lady *Windham* or against her?

Mr. *Haynes*, No Sir, but she arrested me, because I said I lay with her.

John Macnamarra.

Mr. *Papillon*, Mr. *Macnamarra*, when was it you had this discourse with my Lord *Shaftsbury*, what is the time as near as you remember?

Mr. *Macnamarra*, In *March* and *April* last Sir.

Mr. *Papillon*, Twice then do you speak of? Mr. *Macnamarra*, Yes Sir.

Mr. *Papillon*, Which is that that was in *April*?

Mr. *Macnamarra*, That was the last, the last discourse was in *April*.

Mr. *Papillon*, To what purpose was that?

Mr. *Macnamarra*, My Lord said that the King deserved to be deposed as much as King Richard the Second did.

Mr. *Papillon*, In *April* you say. Mr. *Macnamarra*, In *April*.

Mr. *Papillon*, When did you give Information of this?

Mr. *Macnamarra* I cannot exactly tell Sir.

Mr. *Papillon*, Repeat what you said.

Mr. *Macnamarra*, That the King deserved to be deposed as much as King *Richard* the Second, and that he took the Dutchess of *Mazarines* advice in every particular which was the worst of woman kind.

Mr. *Papillon*, What time in *April* was this?

Mr. *Macnamarra*, It was in the beginning of *April*.

Mr. *Papillon*, Where? Mr. *Macnamarra*, In his own house.

Mr. *Papillon*, Who was present? Mr. *Macnamarra*, There was Mr. Ivy by.

Mr. *Papillon*, When did you make information of this?

Mr. *Macnamarra*, I cannot tell, it was a good while agoe.

Mr. *Papillon*, Was it before his Commitment?

Mr. *Macnamarra*, Yes Sir it was.

Mr. *Papillon*, To whom did you give information?

Mr. *Macnamarra*. To the Secretary of State Sir.

Mr. *Papillon*, Which of them? Mr. *Macnamarra*, Mr. Secretary *Jenkins*, Sir.

Mr. *Papillon*, Did not you petition the Common-Council Sir, for relief?

Mr. *Macnamarra*, Yes Sir, I signed a petition that was drawn up, but I did not see it till it was brought to me to sign.

Mr. *Papillon*. Did you read it? Mr. *Mac*. No I never read it neither.

Mr. *Papillon*, Nor don't know what is in it?

Mr. *Macnamarra*. No not don't know the contents of it.

Mr. *Papillon*. My Lord, in that Petition they say, they were tempted to Swear against their Consciences, and that some of the Witnesses had made shipwrack of their Consciences; we ask them now, and they say, they do not know what was in the Petition: if we should ask them who tempted them, and who those Witnesses were, that made shipwrack of their Consciences, it would signifie nothing; for since they do not know what was in the Petition, it is in vain to ask them any more.

Mr *Macnamarra*. For my part, my Lord, I never saw it till it was brought to me to be signed, and do not know the contents of it; but I heard Mr. *Colledge* that was executed at *Oxford*, was concerned in promoting the Petition, by my Lord *Shaftsbury*'s advice,

Dennis

Dennis Macnamara.

Mr. *Papillon. Dennis Macnamara*, tell us how you were introduced to my Lord *Shaftsbury*, when you had this Discourse?

Dennis Macnamara. By my Brother, Sir.

Mr. *Papillon.* What, he that was here laft?

Dennis Macnamara. Yes, Sir. Mr. *Papillon.* He introduced you?

Dennis Macnamara. Yes, Sir. Mr. *Papillon.* When was it?

D. Mac. It was in *March* laft, the latter end of *March* laft, or beginning of *April.*

Mr. *Papillon.* Cannot you tell which of the Months?

Dennis Macnamara. No, I cannot be poſitive in it.

Mr. *Papillon.* Who was by? *Dennis Macnamara.* There was Mr. *Ivy.*

Mr. *Papillon.* No body but Mr. *Ivy*?

Dennis Macnamara. No body but Mr. *Ivy*, and my Brother.

Mr. *Papillon.* Where was it?

Dennis Macnamara. It was in his own Dining Room.

Mr. *Papillon.* Were none of his Servants in the Room?

Dennis Macnamara. Not that I know of.

Mr. *Papillon.* Are you ſure none of his ſervants were there?

Dennis Macnamara. Not that I know of.

Mr. *Papillon.* Did you hear any thing elſe, at any other time?

Dennis Macnamara. No. Mr. *Papillon.* Nor in any other place?

Dennis Macnamara. No. Mr. *Papil.* When did you give in this information?

Dennis Macnamara. I gave it in a good while ago, Sir, I cannot be poſitive.

Mr. *Papillon.* Was it before my Lord was committed?

Dennis Macnamara. Yes, a great while. Mr. *Papil.* To whom did you give it?

Dennis Macnamara. I gave it to the Secretary of State.

Jury. Cannot you remember how long it was before?

Dennis Macnamara. No, I cannot at the preſent.

Mr. *Papillon.* Which of the Secretaries? *D. Mac.* Secretary *Jenkins.*

Mr. *Papillon.* My Lord, I only propoſe, whether we may not ask whether he have not a Pardon, for it would be a ſatisfaction to us for ſome reaſon.

L. C. J. North. Look you here Gentlemen, when the Priſoner makes exceptions to the Witneſſes, then it is proper, but here are no exceptions to the Witneſſes.

Mr. *Papillon.* My Lord, we make no exceptions, but we muſt ſatisfie our own Conſciences, my Lord, that we muſt do, and that is very much, as we find the Credibility of the Witneſſes.

L. C. J. North. Gentlemen, what do you mean that he ſhould have a Pardon for? Mr. *Papillon.* For Crimes.

L. C. J. North. You muſt not ask him to accuſe himſelf.

Mr. *Papillon.* If he hath a Pardon, he is in *ſtatu quo*; ſuppoſe, my Lord, ſome of them have been guilty of Poyſoning, ſome of Felony, ſome of Robbing on the Highway, we do but ask them if they be pardoned?

L. C. J. North. A man muſt not be impeached, but where he may anſwer for it.

Mr. *Papillon.* My Lord, if you do not give us leave, we muſt forbear them.

L. C. J. North. I do not think it proper to ask.

Mr. *Papillon.* The Diſcourſe that you had with my Lord *Shaftsbury*, when was it, Sir, at what time?

Mr. *Ivy*. It was a little after the sitting of the Parliament at *Oxford*.

Mr. *Papillon*. Was it at more times than one?

Mr. *Ivy*. Yes, Sir, several times.

Mr. *Papil*. All the same Discourse?

Mr. *Ivy*. No, not the same Discourse.

Mr. *Papillon*. The words that you spoke of, when was that?

Mr. *Ivy*. That was after the sitting of the Parliament at *Oxford*.

Mr. *Papillon*. About what time was it?

Mr. *Ivy*. It was about the latter end of *March*, or beginning of *April*.

Mr. *Papillon*. When did you make Information of this?

Mr. *Ivy*. I cannot be positive in that neither.

Mr. *Papillon*. Before my Lords Commitment or after?

Mr. *Ivy*. A while before.

Mr. *Papillon*. To whom did you give it?

Mr. *Ivy*. To the Secretary of State.

Foreman. Who was present when my Lord *Shaftsbury* spake those words?

Mr. *Ivy*. Both the *Macnamarra's*, as I remember.

Foreman. Who else?

Mr. *Ivy*. Truly, I do not remember any else privy to our Discourse, neither am I certain, that both the *Macnamarra's* were there, one of them was there I sure of it.

Foreman. What was the reason you concealed this Information so long, had you no inducement to make it at that time, how came you to do it then and not before? What was the reason, you say it was the latter end of *April* and *May*, my Lord was not committed for a good while after, here was two months time?

Mr. *Ivy*. I am not certain how long a time it was before, but I made it as soon as I could.

Foreman. I ask you, whether you know any thing either of words, or treasonable actions, or any thing of my Lord of *Shaftsbury*, spoken or acted at any other time or place?

Mr. *Ivy*. No, I have declared what I know, as to the particulars.

Bernard Dennis.

Mr. *Papil*. Mr. *Dennis*, In the morning you told me something about the Discourse you had with my Lord of *Shaftsbury*, tell me when it was?

Mr. *Dennis*. It was in *April*, 4 or 5 days after the Parliament was Dissolved at *Oxford*.

Mr. *Papillon*. In the beginning?

Mr. *Dennis*. In *March*, after the Parliament was Dissolved at *Oxford*.

Mr. *Papillon*. It was in *March*, and where?

Mr. *Dennis*. In his own house, here in this Town, 4 or 5 days after the Parliament was dissolved at *Oxford*, immediately after he came home, I do not think he was at home 3 days before.

Mr. *Papillon*. Who was present with you then?

Mr. *Dennis*, There was in the Room Mr. *Sheppard* his Gentleman.

Mr. *Papillon*. Who else?

Mr. *Dennis*. Some of his Servants, his Pages I suppose, but whether they did hear this or no, I cannot tell.

Mr. *Papillon*. Did my Lord whisper it, or speak out?

Mr. *Dennis*. My Lord is not a man of an high voice, but of a mediocrite voice.

Mr. *Papillon*. Did he whisper it in your ear?

Mr. *Dennis*. No, I was just by him.

Mr. *Papillon*. Who was in the Room besides?

Mr. *Dennis*. No body, only his Servants.

Mr. *Papillon*. When did you make this Information?

Mr. *Dennis*. I made it in the month of *June*.

Mr. *Papillon*. In the month of *June*? M. *Dennis*. Yes Sir.

Mr. *Papillon*. Before my Lord was committed, or after?

Mr. *Dennis*. Before. Mr. *Papillon*. Who did you make it to?

Mr. *Dennis*. I made my Information to the Secretary of State.

Mr. *Papillon*. Which of them? Mr. *Dennis*. Secretary *Jenkins*.

Mr. *Papillon*. Why did you conceal it so long?

Mr. *Dennis*. Because I was in the City so long.

Mr. *Papillon*. Did you ever go about to muster your 400. men you had in *Ireland*, I ask you whether you did or no?

Mr. *Dennis*. Upon my word I did advise some of them to be ready.

Mr. *Papillon*. And did you provide them with Arms?

Mr. *Dennis*. Not I Sir, I was not able to do it.

Mr. *Papillon*. What Religion are you of? Mr. *Dennis*. I am a Protestant.

Mr. *Papillon*. How long have you been a Protestant?

Mr. *Dennis*. I have been a Protestant since *February* last. And this I must confess, that when I was in *Spain* and *France*, my resolution was to be a Protestant.

Mr. *Godfrey*. Mr. *Dennis*, pray who was in the Room when you were there?

Mr. *Dennis*. The Earl of *Shaftsbury* Sir.

Mr. *Godfrey*. Who else? Mr. *Dennis*. *Mr. Shippard*.

Mr. Godfrey. Who else? Mr. *Dennis*. I cannot name them.

L. C. J. Mr. Godfrey, When another man asks a question, you should consider what is said, and not ask the same question over and over again.

Mr. Papillon. In what place in his house?

Mr. Dennis. In his own Chamber, in the great Chamber, I do not know whether you call it the Hall or the Parlour.

Mr. Papillon. Was it above stairs?

Mr. Dennis. Yes, it was above stairs, my Lord does not use to speak with any below stairs.

Mr. Papillon. Is this all that you know, have you heard my Lord say any treasonable words in any other place, or at any other time?

Mr. Dennis. In the long Gallery, in his own House, at another time.

Mr. Papillon. Why did not you say so before?

Mr. Dennis. I did say so before, in the long Gallery he told me he would have a Common-wealth in *England*, and extirpate the Crown of *England* and the King of *England*.

Mr. Papillon. Is that all, speak all your knowledge?

Mr. Dennis. He said we should all *Irish-men* conform our selves to a Common-wealth, and by that we should get our Estates again.

Mr. Papillon. I ask you if this is all you have to say?

L. C. J. Do you remember any more?

Mr. Papillon. More than you said in the morning?

Mr Dennis. He said he would extirpate the King, and make *England* a Common-wealth, and that we were fools and silly folks that did not comply out selves to their factious party, and that we should get our Estates, and that he would get me a black Gown and a Benefice, in the mean time, and when all things were done he would prefer me to a better, and not only my self but all that were of my name, and would stick to me.

Mr. Papillon. Is this all?

Mr.

Mr. *Dennis*. This is all.

Mr. *Papillon*. Then you have nothing more.

Mr. Dennis. I never spake to him but in his own house.

Mr. Papillon. All your Kindred are Papists, are not they?

Mr. *Dennis*. No Sir, I cannot say so, but most of them are.

L. C. J. North. Who can say that, that question no body can answer.

L. C. J. Look ye Gentlemen, now you have asked these questions, you had best go and consider what evidence is delivered, and weigh well all those things that have been said to you, and you must consider your duty, you are to enquire here, whether it be fitting for the King to call my Lord *Shaftsbury* to question upon this account of of treasonable words.

Mr. Papillon, My Lord, we desire before we go, that either the Law may be read or we may have the Statute book up with us.

L. C. J. The Statute-book was never denyed, but you shall have the Law read here: First the Statute of the 25*th*. of *Edward* the *Third*, and then this last Statute.

L. C. J. North. I would say one thing, because I observed that some of you asked the question, whether the Parliament did not debate about an Association: whether it related to that Paper or no, I am not certain, I hope you will consider that Paper well, for my part I must needs say for my self, I heard of it, but I never heard it read before, and never heard the contents of it; but it seems to me to show what those Officers were to do, for the ends of this Association, and one of those ends as I remember (Gentlemen, I refer you to the paper, and hope you will consider it, you are men of understanding) I thought that one of those ends was to destroy the mercenary forces in and about the Cities of *London* and *Westminster*, and that the Government was to be by the major part of the Members of Parliament in the sitting of Parliament, not with the King, but the major part of the Members of Parliament. Gentlemen I may mistake, for I profess I speak only out of memory; but it seems to me to be of great consequence, and there is great matter to be presumed upon it, it being found under Lock and Key in his Study: but I suppose my Lord *Shaftsbury* may give an account of it, but there is great presumption upon it, it doth not import to be an Association by Act of Parliament.

Mr. At. Gen. When the Parliament was prorogued or dissolved, then the major part of the Members in each County engage themselves to follow their Command and obey their Order.

L. C. J. North. Gentlemen, I hope you will consider your Oaths, and give all things their due weight.

L. C. J. Will you have the Statute read?

Jury. We will read it above.

The Jury withdrew to Consider the Evidence, and returned the Bill *Ignoramus*, upon which the People fell a hollowing and shouting.

Mr. At. Gen. My Lord, let it be Recorded this hollowing and hooping in a Court of Justice.

THE END.